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COMMITTEE ON THE RIGHTS OF THE CHILD
Twenty-sixth Session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child

Palau

1. The Committee considered the initial report of Palau (CRC/C/51/Add.3), received on 21 October 1998, at its 691st to 692nd meetings (see CRC/C/SR.691-692), held on 23 January 2001, and adopted* the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's initial report, which followed the established guidelines. The Committee welcomes the written replies to its list of issues (CRC/C/Q/PAL/1) which allowed for a clearer understanding of the situation of children's rights in the State party. The Committee is encouraged by the dialogue it had with the State party and acknowledges that the presence of a delegation involved in the implementation of the Convention allowed for a fuller assessment of the situation of children in Palau.

* At the 697th meeting, held on 26 January 2001.

B. Positive aspects

3. The Committee expresses satisfaction with the quality of the State party report, which provided information on the practical implementation of the Convention, as well as the challenges and limitations faced in this regard. The Committees notes with appreciation that the preparation of the State report was a collaborative process that involved political and community leaders, including the Council of Chiefs, as well as civil society and the general public.

4. The Committee notes the establishment in 1995 of the National Committee on Population and Children (CoPopChi), the inter-agency committee mandated inter alia to monitor implementation of the Convention. The Committee also welcomes the inclusion of NGOs in the membership of CoPopChi and its work in cooperation with the Council of Chiefs.

5. The Committee notes with appreciation the efforts of the State party to disseminate the principles and provisions of the Convention. In particular, the Committee notes that the State party has translated the Convention into Palauan and distributed it at public meetings, in schools and among parents.

6. The Committee welcomes the National Plan of Action for Children presented to it by the State party, which identifies priority areas for action and makes recommendations with regard to agencies and organizations best suited to implement the Plan.

7. The Committee welcomes the establishment of the Victims of Crime Assistance (VOCA) programme that operates within the Ministry of Health to provide assistance to victims of child abuse and domestic violence.

8. The Committee welcomes the recent (1997-1998) legal amendment that provides for compulsory education for all children between the ages of 5 and 17 years.

C. Factors and difficulties impeding the implementation of the Convention

9. The Committee notes the challenges faced by the State party in implementing adequate programmes and services for children living in the outer islands, which are in some instances isolated and very difficult to reach. The Committee also notes that the limited availability of skilled human resources, compounded by the relatively high rate of emigration, also adversely affects the full implementation of the Convention. Additionally, it is noted that a significant portion of the State party's financing is derived from transfer payments from the United States under the Compact of Free Association, the phasing out of which in 2009 may have an impact on the allocation of budgetary resources for children. The implementation of the Convention is further hindered by the fact that the National Master Development Plan, established in 1998 as a strategic framework for achieving economic independence, does not include children's programmes.

D. Subjects of concern and the Committee's Recommendations

1. General measures of implementation

Status of the Convention in domestic law

10. The Committee notes that the Convention on the Rights of the Child may not be invoked before the courts unless the relevant articles have been enacted into the Palau Code and expresses concern that insufficient efforts have been made to facilitate this process.

11. The Committee recommends that the State party take all appropriate measures to enact domestic legislation to give direct effect to the Convention.

Legislation

12. While the Committee notes that the State party has undertaken a study to determine the inconsistencies between its laws (both statutory and customary laws) and the Convention, it is concerned that insufficient efforts have been made to address the inconsistencies found. Concern is expressed that domestic legislation still does not fully conform to the principles and provisions of the Convention.

13. The Committee recommends that the State party take all effective measures to ensure that its laws conform fully to the principles and provisions of the Convention. The Committee also encourages the State party to consider the possibility of enacting a comprehensive code for children. The Committee recommends that the State party seek technical assistance from, inter alia, the Office of the High Commissioner for Human Rights and UNICEF.

Ratification of international human rights instruments

14. The Committee expresses regret that the State party has not yet acceded to the six main international human rights instruments, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Committee notes that these international human rights instruments would reinforce a culture of human rights and strengthen the efforts of the State party to meet its obligations in guaranteeing the rights of all children under its jurisdiction.

15. The Committee encourages the State party to consider the possibility of acceding to the international human rights instruments to which it is not yet a party.

Coordination

16. While the Committee notes that the National Committee on Population and Children (CoPopChi) has been established to coordinate the implementation of the Convention, it is concerned that insufficient human and financial resources have been allocated for the Committee.

17. The Committee recommends that the State party allocate adequate human and financial resources to CoPopChi.

18. The Committee notes that the State party has elaborated a National Plan of Action for Children that establishes priorities that are largely consistent with the provisions and principles of the Convention. However, the Committee is concerned that the Office of Child and Family Support, identified in the National Plan of Action for Children as the focal point for children and family support activities, as well as for the implementation of the Convention, has not yet been established.

19. The Committee encourages the State party to take all appropriate measures to implement the proposed National Plan of Action for Children. The Committee recommends that the State party take all appropriate measures to establish the Office of Child and Family Support and to ensure that adequate financial, human and technical resources are allocated to that office to enable it to function effectively.

Data collection

20. The Committee notes that the report and the core document of the State party both contain substantive statistical data. The Committee is concerned that the State party's data collection mechanism does not adequately allow for the systematic and comprehensive collection of disaggregated data on and the effective monitoring and evaluation of progress achieved in implementing policies and programmes for children below the age of 18 years.

21. The Committee recommends that the State party reinforce its efforts to develop a comprehensive system of data collection incorporating all the areas covered by the Convention. Such a system should cover all children below the age of 18 years, with specific emphasis on those who are particularly vulnerable, including children of non-Palauan parentage, especially children of immigrant families; children living in the outer islands; children in conflict with the law; children of single-parent families; and sexually abused children, including boys. In this context, the Committee recommends that the State party seek technical assistance from, inter alia, the United Nations Population Fund (UNFPA) and UNICEF.

Independent monitoring structure

22. The Committee notes that the State party, under the National Plan of Action for Children, intends to establish an ombudsperson for children within the proposed Office for Child and Family Support. The Committee further notes that that office will also be responsible for

coordinating the implementation of the Convention. The Committee expresses concern at the potential conflict of interest that may arise as a result of having the same office responsible for both coordination and monitoring.

23. The Committee encourages the State party to reinforce its efforts to establish an independent monitoring mechanism, such as an ombudsperson for children, to deal with complaints of violations of the rights of children and to provide remedies for such violations. The Committee further encourages the State party to take all appropriate measures to ensure that the office of the ombudsperson is allocated adequate resources and is child-friendly and accessible to children. The Committee suggests that the State party introduce an awareness raising campaign to facilitate the effective use by children of the monitoring mechanism. The Committee further suggests that the State party reconsider its proposal to incorporate the ombudsperson for children within the Office for Child and Family Support so as to ensure that the agency with responsibility for coordinating implementation of the Convention is not also responsible for monitoring implementation.

Allocation of budgetary and human resources

24. The Committee notes with concern that budgetary allocations for education and social services have been gradually reduced since independence (1994) and that there is a scarcity of resources for welfare and social services. The Committee is further concerned that there is no social welfare system in the State party. Additionally, the Committee is concerned that in the light of article 4 of the Convention, not enough attention has been paid to allocating budgetary resources, at both the national and community levels, in favour of children "to the maximum extent of ... available resources". The Committee expresses concern that insufficient efforts have been made to ensure that an adequate proportion of financing gained through international cooperation is allocated to children's programmes.

25. In the light of articles 2, 3 and 6 of the Convention, the Committee encourages the State party to pay particular attention to the full implementation of article 4 of the Convention by prioritizing budgetary allocations to ensure implementation of the economic, social and cultural rights of children, to the maximum extent of available resources, and where possible with international cooperation. In allocating resources, the State party should pay particular attention not only to education and health, but also to social services, especially in the outer islands and among non-Palauan children, to redress the gradual reduction in allocation to these areas. The Committee recommends that the State party establish a social welfare system to protect vulnerable children, particularly in the light of the recent trend towards charging fees for social services. The Committee also recommends that the State party allocate adequate resources to strengthen the infrastructure of professionals working with and for children. The Committee encourages the State party to reinforce its efforts in preparation for the eventual phasing out of the Compact of Free Association by, inter alia, allocating adequate financial and human resources. In this connection, the State party should guarantee greater protection for the most vulnerable groups of children against the adverse effects of these economic changes.

Dissemination of the Convention

26. The Committee notes the initiatives of the State party to promote awareness of the principles and provisions of the Convention, including the translation of the Convention into Palauan and the collaborative process involved in the preparation of the report. The Committee is concerned, however, that State officials, parliamentarians, professional groups, children, parents, traditional leaders and helpers and the public at large are still not sufficiently aware of the Convention and the rights-based approach enshrined therein.

27. The Committee recommends that greater effort be made to ensure that the provisions of the Convention are widely known and understood by adults and children alike, particularly at the community level. In this regard, the Committee recommends the reinforcement of adequate and systematic training and/or sensitization of State officials; parliamentarians; and professional groups working with and for children, such as judges, lawyers, law enforcement personnel, teachers, school administrators and health personnel, including psychologists and social workers, as well as traditional community leaders and helpers. Further, the Committee recommends that the State party seek to ensure that the Convention is fully integrated into the curricula at all levels of the educational system. The Committee also encourages the State party to continue to promote the Convention through, inter alia, the use of local languages and traditional methods of communication. The Committee suggests that the State party seek technical assistance from, inter alia, the Office of the High Commissioner for Human Rights and UNICEF.

2. Definition of the child

28. The Committee expresses concern regarding the low legal age for criminal responsibility (10 years). The Committee notes with concern that the State party has not yet established legal minimum ages for sexual consent of boys and employment for children. The Committee notes that the National Youth Policy Task Force has proposed a narrowing of the definition of youth from 15-45 years to 15-34 years. However, it is concerned that the Task Force's new proposal still does not take into account the definition of the child (all persons below the age of 18 years) provided in the Convention.

29. The Committee recommends that the State party raise the legal age for criminal responsibility. The Committee recommends that the State party take all appropriate measures to introduce legal minimum ages for sexual consent of boys and employment of children to ensure conformity with the principles and provisions of the Convention and to guarantee greater protection for all children below the age of 18 years. In the light of article 1 of the Convention, the Committee recommends that the State party reconsider its proposal regarding the definition of youth.

3. General principles

30. The Committee wishes to express its concern that the State party does not appear to have fully taken into account the provisions of the Convention, especially its general principles, as

reflected in articles 2 (non-discrimination), 3 (best interests of the child), 6 (survival and development) and 12 (respect for the views of the child), in its legislation, its administrative and judicial decisions, as well as in its policies and programmes relevant to children.

31. It is the Committee's view that further efforts should be undertaken to ensure that the Convention, and in particular the general principles, not only guide policy discussion and decision-making, but are also appropriately integrated in all legal amendments, as well as in judicial and administrative decisions and in projects, programmes and services which have an impact on children.

Non-discrimination

32. The Committee notes with concern that the principle of non-discrimination is not adequately implemented, in particular with respect to vulnerable groups of children, especially children of non-Palauan parentage, including children of immigrant families and children adopted through inter-country adoptions, children living in the outer islands, and children living and/or working on the streets. The Committee is particularly concerned about their limited access to adequate health, education and other social services. The Committee also expresses concern at the disparity in the legal minimum age for marriage of girls (16 years) and boys (18 years).

33. The Committee recommends that the State party increase its efforts to ensure the implementation of laws, policies and programmes guaranteeing the principle of non-discrimination and full compliance with article 2 of the Convention, particularly as it relates to the vulnerable groups. In particular, the Committee recommends that the State party take all appropriate measures, including those of a legal nature, to ensure that non-Palauan children are afforded equal and adequate access to health, education and social services. The Committee further recommends that the State party take all appropriate measures to increase the legal minimum age of marriage for girls to that of boys (18 years).

Best interests of the child

34. The Committee is concerned that the general principle of the best interests of the child (art. 3) has not been taken fully into account in the State party's legislative, administrative and judicial decisions, as well as in policies and programmes relevant to children. In this regard, the Committee notes that under customary law, family matters usually reflect "the best interests of all concerned parties" as opposed to "the principle of the best interests of the child".

35. The Committee recommends that the State party take all appropriate measures to ensure that the general principle of the best interests of the child is appropriately integrated in all legal provisions and under customary law, as well as in judicial and administrative decisions and in projects, programmes and services which have an impact on children.

Respect for the views of the child

36. The Committee notes that the views of children aged 12 years and older are heard in court on matters relating to their own adoption and that children are heard in criminal cases. In other matters the right of the child to express his or her views in court is at the discretion of the judge. While noting that family law matters are generally dealt with under customary law, the Committee is concerned that traditional culture, values and attitudes may not always facilitate expression and consideration of the views of children.

37. In the light of article 12 of the Convention, the Committee recommends that the State party develop a systematic approach to increase awareness, including among traditional leaders, of the participatory rights of children; and to further encourage respect for the views of the child in the family, communities, schools, and administrative and judicial systems. The Committee welcomes the positive reaction of the delegation to the proposal to consider the establishment of a children's parliament and encourages the State party to review the process undertaken by other States in establishing such a parliament or encouraging some other framework for the participation of children in society.

4. Family environment and alternative care

Children deprived of a family environment

38. The Committee notes with concern the breakdown of the traditional extended family structure and the increasing number of female-headed households, particularly in the light of the lack of a welfare support system and alternative care facilities, as well as of inadequate early child-care services. The Committee further expresses concern at the increasing number of children living and/or working on the streets and the lack of policies, programmes and services to provide greater protection and care for these children and to strengthen families.

39. The Committee recommends that the State party undertake a needs-assessment study of female-headed households with a view to ensuring adequate availability and accessibility of welfare programmes, alternative care facilities and early child-care services. The Committee recommends that the State party undertake a study to understand the scope and nature of the increasing phenomenon of children living and/or working on the streets. Additionally, the Committee recommends that the State party establish mechanisms to ensure that children living and/or working on the streets are provided with nutrition, clothing, housing, health and rehabilitation services, education, and vocational and life-skills training. Moreover, in the light of the weakening of the extended family structure, the Committee recommends that special attention should be paid to the strengthening of families as social units. The Committee recommends that the State party cooperate and coordinate its efforts with civil society in this regard.

Adoptions and foster care

40. The Committee expresses concern at the inadequate legislation, policies and institutions to regulate inter-country adoptions and to protect the rights of children in this regard. It is noted with concern that the law regarding inter-country adoptions does not allow the adopting parents

to transfer their nationality to non-Palauan adopted children. Additionally, concern is expressed that children in inter-country adoptions are generally not eligible for a Palauan passport; and may not own or inherit land or benefit from health, education and social service subsidies. The Committee expresses further concern at the lack of monitoring with respect to both domestic and inter-country adoptions, as well as the widespread practice of unmonitored informal adoptions within the State party. The Committee notes with concern that despite the impact of urbanization and the changing nature of the traditional extended family support system, the State party has not yet instituted a foster care programme and other alternative care facilities.

41. In the light of article 21 of the Convention, the Committee recommends that the State party establish proper monitoring procedures with respect to both domestic and inter-country adoptions and introduce adequate measures to monitor the practice of traditional informal adoptions with the view to preventing abuse and protecting the best interests of the child. Additionally, it is recommended that the State party take all appropriate measures, including legal and administrative ones, to ensure the effective regulation of inter-country adoptions and to protect the rights of children in this regard. The Committee recommends that the State party consider the implementation of foster care and other alternative care programmes to guarantee greater protection and care for children deprived of a family environment. The Committee encourages the State party to consider the possibility of acceding to the Hague Convention of 1993 on the Protection of Children and Cooperation in Respect of Inter-country Adoption.

Abuse/neglect/maltreatment/violence

42. The Committee notes the establishment of the VOCA Programme that provides support services for victims of child abuse and domestic violence, as well as the recent studies undertaken on domestic violence and child abuse. The Committee is concerned about the increasing incidence of sexual abuse of children, including within the family, as well as the continued lack of awareness about domestic violence, ill-treatment, abuse (sexual, physical and psychological) and neglect of children. Concern is also expressed at the insufficient financial and human resources allocated to VOCA, as well as the inadequate programmes established to prevent and combat all forms of abuse against children and to facilitate the rehabilitation of child victims. The Committee is also concerned about the lack of authority under law to remove a child from harmful situations within the home in order to protect him/her.

43. In the light of article 19, the Committee recommends that the State party reinforce its efforts to prevent and combat domestic violence; child abuse, including sexual abuse; and ill-treatment and neglect of children. It further recommends that the State party take all appropriate measures to ensure that cases of domestic violence, ill-treatment and sexual abuse of children are properly investigated in the context of a child-friendly judicial procedure and that sanctions are applied to perpetrators, with due regard given to protecting the right to privacy of the child. Additionally, all appropriate measures should be taken to guarantee the physical and psychological recovery and social reintegration of child victims, in accordance with article 39 of the Convention, including through awareness raising on the role of VOCA. The Committee recommends that the State party review its

legislation to guarantee greater protection for children in harmful situations. The Committee recommends that the State party seek technical assistance from, inter alia, UNICEF.

Corporal punishment

44. The Committee notes that the Master Plan for Education (2000) is aimed, inter alia, at strengthening the network of guidance and counselling and at discouraging and preventing the use of physical punishment at both the primary and secondary school levels. The Committee is concerned, however, that corporal punishment is still practised and widely accepted in the State party and that domestic legislation generally does not prohibit and eliminate its use in homes and schools.

45. **The Committee recommends that the State party take all appropriate measures, including of a legislative nature, to prohibit and eliminate all forms of corporal punishment in schools and in homes. The Committee further suggests that awareness raising and education campaigns be conducted to change public attitudes and ensure that alternative forms of discipline are administered in a manner consistent with the child's human dignity and in conformity with the Convention, especially articles 19 and 28.2.**

5. Basic health and welfare

Health and health services

46. The Committee notes the efforts of the State party to improve early childhood health care and services and to introduce a health insurance programme. While the Committee notes the introduction of a training programme to promote proper breastfeeding techniques, it remains concerned about the continued decline in breastfeeding, especially among working mothers. The Committee notes with concern the increasingly poor nutrition practices and food choices, including within the school lunch programme, as well as the high incidence of overweight and obesity among children, especially those living in urban areas. The Committee notes that abortion is illegal except on medical grounds and expresses concern regarding the best interests of child victims of rape and or incest in this regard. Concern is also expressed about the inadequate environmental health conditions in the State party, particularly as regards solid waste management.

47. **The Committee recommends that the State party reinforce its efforts to promote proper breastfeeding practices, especially among working mothers and in the work environment. The Committee recommends that the State party take all appropriate measures to promote and encourage healthy nutritional practices, in order to prevent and address overweight and obesity among children. The Committee recommends that the State party review its legislation concerning abortion, with a view to guaranteeing the best interests of child victims of rape and incest. Further, it recommends that the State party reinforce its efforts to improve environmental health, particularly as regards solid waste management.**

Adolescent Health

48. The Committee expresses its concern with respect to the limited availability of programmes and services and the lack of adequate data in the area of adolescent health, including suicides; mental health, particularly with respect to boys; teenage pregnancy; STDs; and the use and abuse of tobacco, betelnut, alcohol and illicit drugs.

49. The Committee recommends that the State party increase its efforts to promote adolescent health policies and services and to further strengthen reproductive health education, including the promotion of male acceptance of the use of contraceptives. The Committee further suggests that a comprehensive and multidisciplinary study be undertaken to understand the scope of adolescent mental health concerns. Additionally, it is recommended that the State party undertake further measures, including the allocation of adequate human and financial resources, to increase the number of social workers and psychologists, and to develop accessible youth-friendly care, counselling, and rehabilitation facilities for adolescents. The Committee encourages the State party to seek technical assistance from, inter alia, UNICEF and the World Health Organization.

Children with disabilities

50. While the Committee notes that the State party has enacted legislation to protect children with disabilities and established an Inter-agency Task Force on Children with Special Needs, it is concerned that there are insufficient programmes, services and resources for children in this regard. The Committee is also concerned about the insufficient efforts and the reluctance of teachers to facilitate the inclusion and acceptance of children with disabilities into the regular school system, despite requirements under law.

51. In the light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's recommendations adopted at its Day of General Discussion on "The rights of children with disabilities" (CRC/C/69), it is recommended that the State party strengthen its efforts to develop early identification programmes to prevent disabilities; establish special education programmes for children with disabilities; and implement the law that provides for their inclusion within the school system. Additionally, the Committee encourages the State party to reinforce its efforts to raise awareness and sensitize the public about the rights and special needs of children with disabilities, including children with mental health concerns. In this regard, the Committee encourages the State party to consider including mental disabilities within the definition of disabilities; to ensure that children with such concerns are provided adequate care, services and rehabilitation; and to guarantee adequate human and financial resource allocations. The Committee further recommends that the State party seek technical cooperation for the training of professional staff working with and for children with disabilities from, inter alia, the World Health Organization.

6. Education, leisure and cultural activities

Right to and aims of education

52. The Committee notes the Master Plan for Education 2000, which is aimed at, inter alia, improving the quality and relevance of education and preparing students for adult life. However, the Committee is concerned about the inadequate performance of students and the continually high drop-out rates, particularly at the secondary school level. Concern is expressed regarding the insufficient teacher support in smaller schools in the rural areas and the outer islands, as well as the situation of overcrowding in the larger schools in the urban centres. The Committee expresses concern that there is no physical education programme in the school system. The Committee notes with concern that the budgetary allocations for education have been progressively reduced since independence in 1994. The Committee also notes with concern the lack of clear policy and practice on the incorporation of Palauan, as a parallel language, in the educational curriculum.

53. The Committee recommends that the State party take all appropriate measures, including the allocation of adequate financial, human and technical resources, to improve the situation (including the quality and relevance) of education and to ensure that all children enjoy the right to education. The Committee further recommends that the State party seek to implement additional measures to encourage children, especially boys, to stay in school, particularly during the period of compulsory education. In this connection, it is recommended that the State party undertake a study on school drop-out and the linkages between the drop-out rate and the relevance of educational material and methods of teaching. In the light of article 31, the Committee recommends that the State party introduce a physical education programme into the school curriculum. The Committee encourages the State party to reinforce its efforts to establish clear policy and practice regarding the use of Palauan as a parallel language in the school curriculum. The Committee recommends that the State party undertake a review of the aims of education outlined in the Master Plan for Education 2000, with a view to ensuring full conformity with article 29.1 and other relevant articles of the Convention. It is further recommended that the State party seek to strengthen its educational system through closer cooperation with UNICEF and UNESCO.

7. Special protection measures

Economic exploitation

54. The Committee expresses concern at the absence of adequate labour laws to protect children from economic exploitation. In the light of the increasing number of school drop-outs, the lack of a minimum age for employment and the increasing number of children living and/or working on the streets, the Committee is concerned about the lack of information and adequate data on the situation of child labour and economic exploitation in the State party.

55. In the light of article 32 of the Convention, the Committee recommends that the State party enact legislation to protect children from economic exploitation and introduce appropriate monitoring mechanisms to ensure the enforcement of such laws, including in

the informal sector. It is further recommended that the State party undertake a comprehensive study to assess the situation with regard to child labour. The Committee encourages the State party to consider ratifying ILO Convention No. 138 concerning Minimum Age for Admission to Employment and ILO Convention No. 182 concerning the Elimination of the Worst Forms of Child Labour.

Drug abuse

56. The Committee is concerned at the high incidence of drug, alcohol and substance abuse (including the use of betelnut) among young people and the limited psychological, social and medical programmes and services available in this regard.

57. In the light of article 33 of the Convention, the Committee recommends that the State party take all appropriate measures, including administrative, social and educational measures, to protect children from the illicit use of alcohol, narcotic drugs and psychotropic substances and to prevent the use of children in the illicit production and trafficking of such substances. It encourages the State party to strengthen its efforts to implement rehabilitation programmes dealing with child victims of alcohol, drug and substance abuse. In this regard, the Committee encourages the State party to consider seeking technical assistance from, inter alia, UNICEF, WHO and the United Nations International Narcotics Control Board.

Sexual exploitation and sexual abuse (art. 34)

58. The Committee expresses its concern about the inadequate legal protection of children, particularly boys, against commercial sexual exploitation, including prostitution and pornography. Concern is also expressed at the insufficient programmes for the physical and psychological recovery and social reintegration of child victims of such abuse and exploitation.

59. In the light of article 34 and other related articles of the Convention, the Committee recommends that the State party take all appropriate measures to ensure adequate legal protection of children, including boys, against commercial sexual exploitation and pornography. The Committee recommends that the State party undertake all appropriate measures to ensure the non-stigmatization and non-criminalization of child victims of sexual abuse and exploitation. Additionally, it is recommended that the State party undertake studies with a view to understanding the scope of the problem and implementing appropriate policies and measures, including the physical and psychological recovery and social reintegration of child victims. The Committee recommends that the State party take into account the recommendations formulated in the Agenda for Action adopted at the 1996 Stockholm World Congress against Commercial Sexual Exploitation of Children and that it raise the age for protection against commercial sexual exploitation to 18 years.

Administration of juvenile justice

60. While the Committee notes the efforts of the State party in the area of juvenile justice, including the recent development, by the judiciary, of a programme that allows for alternative hearings for juveniles by the Minister of Justice, it is concerned that additional efforts are needed in this regard.

61. The Committee recommends that the State party take all effective measures to implement a juvenile justice system in conformity with the Convention, in particular articles 37, 40 and 39, and of other United Nations standards in this field, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. The Committee also recommends that the State party establish social services to support judges and guarantee the rights of children (especially the right to a fair hearing) in traditional disciplinary measures. The Committee further recommends that the State party consider seeking technical assistance from, inter alia, the Office of the High Commissioner for Human Rights, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Coordination Panel on Technical Assistance and Advice in Juvenile Justice.

1. Ratification of the Optional Protocols

62. While noting that the State party does not have an army or military service, **the Committee recommends that the State party consider signing and ratifying the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. The Committee also recommends that the State party consider signing and ratifying the Optional Protocol on the sale of children, child prostitution and child pornography.**

2. Dissemination of reports

63. Finally, **the Committee recommends that, in the light of article 44, paragraph 6, of the Convention, the initial report and written replies presented by the State party be made widely available to the public at large and that publication of the report be considered, along with the relevant summary records and the concluding observations adopted thereon by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government and the general public, including NGOs.**

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COMMITTEE ON THE RIGHTS OF THE CHILD
Twenty-sixth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding Observations of the Committee on the Rights of the Child

Dominican Republic

1. The Committee considered the initial report of the Dominican Republic (CRC/C/8/Add.40), received on 1 December 1998, and its supplementary report (CRC/C/8/Add.44), received on 13 December 2000, at its 693rd and 694th meetings (see CRC/C/SR. 693-694), held on 24 January 2001 and adopted* the following concluding observations.

A. Introduction

2. While the Committee welcomes the State party's initial report, it regrets its late submission and that it does not follow the guidelines established by the Committee. The Committee welcomes the written replies to its list of issues (CRC/C/Q/DOMREP/1) and the supplementary report (CRC/C/8/Add.44), which allowed for a clearer understanding of the situation of children in the State party. The Committee is encouraged by the constructive and open dialogue it had with the State party, whose delegation covered the major issues of the Convention, and also welcomes the positive reactions to the suggestions and recommendations made during the discussion.

* At the 697th meeting, held on 26 January 2001.

B. Positive aspects

3. The enactment of children's rights related legislation such as Law 14-94, also known as the Code for the Protection of Children and Adolescents (1994), the General Law on Education (1997), the Law against Family Violence (1997), the General Law for Youth (2000) and the General Law on Disabilities (2000) are regarded as positive steps for the implementation of the Convention in the State party.

4. The Committee welcomes the ratification of ILO Convention No. 138 concerning Minimum Age for Admission to Employment and ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999).

5. The Committee notes the establishment of special courts (tribunals and appeal courts) for children and adolescents and of the Supreme Court of Juvenile Justice within the Supreme Court.

6. The Committee also notes the signing (1996) of a memorandum of understanding between the State party and the International Labour Organization/IPEC as well as the establishment of the National Committee for the Eradication of Child Labour.

C. Factors and difficulties impeding the implementation of the Convention

7. Concern is expressed that widespread poverty and long-standing economic and social disparities are affecting the most vulnerable groups, including children, and hampering the enjoyment of the rights of the child in the State party.

D. Principal subjects of concern and recommendations

D.1 General measures of implementation

Legislation

8. While the Committee welcomes the enactment of Law 14-94 (Code for the Protection of Children and Adolescents) and notes the measures taken by the State party in preparation for the implementation of this law, it remains concerned about the lack of a comprehensive policy, including the required financial and human resources, and administrative reform, necessary for the full implementation of this legislation.

9. The Committee recommends that the State party complete, as a matter of priority, the implementation of Law 14-94 (Code for the Protection of Children and Adolescents). The Committee further recommends that the State party take effective measures, including the allocation, to the maximum extent, of available resources, both financial and human, for the full implementation of this legislation.

Coordination

10. While the Committee notes of the establishment of the Governing Body (Organismo Rector) as the institution in charge of ensuring the coordination of governmental bodies working to implement the Convention, it remains concerned about the limited capacity and resources of this Body to fulfil its mandate in a proper manner. The Committee is also concerned about the weak inter-institutional coordination and the duplication of action and functions. The Committee is further concerned at the low interaction and dialogue between the Governing Body and NGOs.

11. The Committee recommends that the State party take all measures to strengthen the coordinating role of the Governing Body to enable it to fulfil its mandate in an effective manner at the national, regional and local levels. Furthermore, the Committee recommends that the State party guarantee broader participation of civil society and non-governmental organizations in the Governing Body and effective cooperation with other national Councils (CONANI, CONAPLUVI, CONADIS, etc.).

Data collection and monitoring

12. The Committee expresses its concern at the lack of a data collection system covering all areas of the Convention and the lack of a system for monitoring compliance with the Convention. In particular, the Committee is concerned about the fact that children of Haitian origin born in the State party's territory or belonging to Haitian migrant families have not been included in the 1996 census and that statistics are very limited concerning children in conflict with the law.

13. The Committee recommends that the State party continue to develop and strengthen its data collection system, with a view to covering all areas of the Convention. Such a system should cover all children under 18 years of age, with specific emphasis on vulnerable groups of children, including children of Haitian origin born in the State party's territory or belonging to Haitian migrant families, as a basis for assessing the progress achieved in the realization of children's rights and in order to help design policies for better implementation of the provisions of the Convention.

14. The Committee further recommends that the State party establish an independent and effective system for monitoring compliance with the Convention, with a view to assessing progress achieved in the realization of children's rights and to evaluating policies for better implementation of the provisions of the Convention. In this regard, the Committee encourages the State party to seek international assistance from, inter alia, UNICEF.

Budget and financial resources for children

15. The Committee expresses its concern at the limited budget allocations and mobilization for the social sector, in particular for those areas addressing the needs of the most vulnerable groups of children, and also to support community activities (child rights committees, child

friendly municipalities) in the protection of the rights of the child. Furthermore, concern is expressed at the lack of specific disaggregated data on national budget allocations to meet the needs of children.

16. The Committee reiterates its recommendation that all measures to implement economic, social and cultural rights should be undertaken "to the maximum extent of ... available resources" in the light of articles 2, 3 and 4 of the Convention and that particular attention be paid to effective budget mobilization and allocation, in particular for the protection of children belonging to vulnerable and marginalized groups. The Committee further recommends that the State party develop a locally based system to monitor and evaluate the situation of children living in areas of extreme poverty, in order to make priority budget allocations for these groups of children.

Dissemination of the Convention

17. While aware of the measures undertaken to promote widespread awareness of the principles and provisions of the Convention, the Committee is of the opinion that these measures need to be strengthened. While acknowledging the existence of specific training for judges, the Committee is concerned that current training programmes for professionals working with and for children do not reach all such groups.

18. The Committee recommends that the State party strengthen its efforts to disseminate the principles and provisions of the Convention as a measure to sensitize society about children's rights through social mobilization. Special emphasis should be placed on the dissemination of the Convention among minority groups, as well as in rural and remote areas. The Committee encourages the State party to consider seeking technical assistance in this area from, inter alia, the Office of the High Commissioner for Human Rights and UNICEF.

19. The Committee encourages the State party to continue providing systematic education and training on the provisions of the Convention for all professional groups working with and for children, in particular parliamentarians, judges, lawyers, law enforcement officials, civil servants, municipal workers, personnel working in institutions and places of detention for children, teachers, health personnel, including psychologists, and social workers. Technical assistance from, inter alia, the Office of the High Commissioner for Human Rights and UNICEF could be requested in this regard.

D.2 Definition of the child

20. While noting the current review of the legislation on this issue, the Committee expresses its concern at the different minimum legal age for marriage with parental consent for girls (15 years) and for boys (16 years).

21. The Committee recommends that the State party raise and equalize the minimum legal age for marriage for boys and girls.

D.3 General principles

Non-discrimination

22. The Committee is deeply concerned at the discrimination against children of Haitian origin born in the State party's territory or belonging to Haitian migrant families, especially their limited access to housing, education and health services, and notes in particular the lack of specifically targeted measures to address this problem. Furthermore, concern is expressed at the existing patterns of economic and social disparities, and at gender and racial discrimination.

23. In the light of article 2 and other related articles of the Convention, the Committee recommends that the State party take, as a matter of priority, effective measures to ensure that children of Haitian origin born in the State party's territory or belonging to Haitian migrant families have the same access to housing, education and health services as other children. The Committee also recommends that the State party strengthen and increase measures to reduce economic and social disparities, including between urban and rural areas; to prevent discrimination against the most disadvantaged groups of children, such as girls, children with disabilities, children living in and/or working on the streets; and children living in rural areas; and to guarantee their full enjoyment of all the rights as recognized in the Convention.

Best interests of the child and respect for the views of the child

24. The Committee is concerned that two general principles of the Convention, as laid down in articles 3 (best interests of the child) and 12 (respect of the views of the child), are not fully applied and duly integrated into the implementation of the policies and programmes of the State party.

25. The Committee recommends that further efforts be made to ensure the implementation of the principles of the "best interests of the child" and "respect for the views of the child", especially his or her rights to participate in the family, at school, within other institutions and in society in general in order to empower children to their fullest development and dignity. These principles should also be reflected in all policies and programmes relating to children. Awareness raising among the public at large, including community leaders, as well as educational programmes on the implementation of these principles should be reinforced in order to change traditional perceptions of children as objects rather than subjects of rights.

D.4 Civil rights and freedoms

Birth registration

26. While the Committee takes note of the State party's efforts in the area of birth registration, it remains concerned that a large percentage of children are not registered and are not provided with identity cards, thus preventing them from enjoying their rights fully. In particular, concern is expressed about the situation of children of Haitian origin or belonging

to Haitian migrant families whose right to birth registration has been denied in the State party. As a result of this policy, those children have not been able to enjoy fully their rights, such as to access to health care and education.

27. In the light of article 7 of the Convention, the Committee recommends that the State party strengthen and increase its measures to ensure the immediate registration of the birth of all children. Special emphasis should be placed on the registration of children belonging to the most vulnerable groups, including children of Haitian origin or belonging to Haitian migrant families.

Ill-treatment

28. While noting the clear legislative prohibition of all forms of torture, the Committee expresses its concern about the persistent allegations that children are detained in conditions which amount to cruel, inhuman or degrading treatment, and of children being physically ill-treated by members of the police force.

29. In the light of article 37 and other related articles of the Convention, the Committee recommends that the State party use effectively its judicial mechanisms to deal with complaints of police brutality, ill-treatment and abuse of children, and that cases of violence against and abuse of children be duly investigated in order to avoid impunity for the perpetrators. The Committee encourages the State party to consider ratifying the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

D.5 Family environment and alternative care

Children deprived of family environment

30. The Committee remains deeply concerned at the weakness of family links, at the large numbers of children who have been deprived of a family environment and, in particular at reports regarding: difficulties and slow progress in tracing separated families and children; the lack of adequate mechanisms of protection for children living in institutions; the placement of children in institutions for long periods; and the predominant use of placement in institutions in preference to the development of alternative care measures (e.g., adoption and foster care).

31. The Committee recommends that the State party strengthen and increase its programmes, in collaboration with relevant NGOs, to support families in need, in particular single parent families and those in socio-economic or other difficult circumstances, such as very young couples with children. The Committee also recommends that the State party develop programmes to facilitate alternative care, in particular foster care, provide additional training for social and welfare workers, and establish independent complaint and monitoring mechanisms for alternative care institutions. The Committee urges the State party to make every effort to strengthen family tracing programmes and to increase its efforts to provide support, including training for parents, to discourage the abandonment of children. The Committee further

recommends that the State party ensure adequate periodic review of placement of children living in institutions, and establish an independent and easily accessible complaint monitoring mechanism for those children.

32. The Committee encourages the State party to ratify the Hague Convention of 1993 on the Protection of Children and Cooperation in Respect of Inter-country Adoption, as well as bilateral agreements.

Protection from abuse and neglect

33. While the Committee welcomes the adoption of special legislation criminalizing domestic violence, the designation of April as the Month of Child Abuse Prevention and the creation of a hotline for abused children, it expresses its concern that physical and sexual abuse - within and outside the family - widely exist in society. Concern is also expressed at the insufficient allocation of resources, both financial and human, as well as at the lack of adequately trained personnel to prevent and combat such abuse. The insufficiency of rehabilitation measures and facilities for victims and their limited access to justice are also matters of concern.

34. In the light of articles 19 and 39 of the Convention, the Committee recommends that the State party take effective measures, including reinforcing current multi-disciplinary programmes and rehabilitation measures, to prevent and combat child abuse and ill-treatment of children within the family, at school and in society at large. It suggests that law enforcement should be strengthened with respect to such crimes; adequate procedures and mechanisms to deal with complaints of child abuse should be reinforced in order to provide children with prompt access to justice and to avoid impunity for the offenders. Furthermore, educational programmes should be established to combat traditional attitudes within society regarding this issue. The Committee encourages the State party to consider seeking international cooperation to this effect from, inter alia, UNICEF.

D.6 Basic health and welfare

35. While taking note of the State party's achievements in the area of basic health and welfare, the Committee is concerned about the very high infant and under-five mortality rates as well as at the prevalence of malnutrition among children. Concern is also expressed at the limited access to health centres, in particular in rural areas. The persistence of health problems related to insufficient access to safe water and sanitation are also matters of concern.

36. The Committee recommends that the State party continue taking all appropriate measures to improve the health infrastructure, including through international cooperation, to ensure access to basic health care and services for all children and to increase access to safe drinking water and sanitation. More concerted efforts need to be taken to combat malnutrition and to ensure the adoption and implementation of a national nutritional policy and action plan for children. The Committee further recommends that the State party undertake initiatives related to the reduction of infant mortality such as the "Integrated Management of Childhood Illnesses" (IMCI), a joint programme of the World Health Organization (WHO) and UNICEF.

Adolescent Health

37. The Committee expresses its concern at the high teenage pregnancy and maternal mortality rates; at the insufficient access by teenagers to reproductive health and sexual education and counselling services, including outside schools; at the increasing rate of HIV/AIDS, STDs and drug and substance abuse (e.g., glue-sniffing) among children and adolescents; and at the lack of information on mental health.

38. **The Committee suggests that a comprehensive and multi-disciplinary study be undertaken to understand the scope of the phenomenon of adolescent health problems, especially early pregnancies and maternal mortality. The Committee recommends that the State party adopt comprehensive adolescent health policies and strengthen reproductive health and sexual education and counselling services. The Committee further recommends the State party to continue taking measures for the prevention of HIV/AIDS and to take into consideration the Committee's recommendations adopted on its Day of General Discussion on "Children living in a world with HIV/AIDS" (CRC/C/80). The Committee also recommends that further efforts, both financial and human, be undertaken for the development of child friendly counselling services, as well as care and rehabilitation facilities for adolescents. Measures to combat and prevent substance abuse among children should be strengthened. The Committee also recommends the development of mental health services.**

Children with disabilities.

39. While noting the adoption of the General Law on Disabilities (2000) and the creation of the National Council on Disability, the Committee is concerned at the lack of data on children with disabilities and the insufficient measures taken by the State party to ensure effective access of these children to health, education and social services, and to facilitate their full inclusion in society. The Committee is also concerned about the small number of well-trained professionals working with and for children with disabilities.

40. **In the light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96), the Committee recommends that the State party develop early identification programmes to prevent disabilities, implement alternatives to the institutionalization of disabled children, envisage awareness-raising campaigns to reduce discrimination against disabled children, promote their inclusion in regular education and society at large, and when necessary establish special education programmes and centres. The Committee further recommends that the State party seek technical cooperation for the training of professional staff working with and for children with disabilities. International cooperation from, inter alia, UNICEF and WHO can be sought to this effect.**

D.7 Education, leisure and cultural activities

41. The Committee welcomes the State party's efforts in the field of education, in particular the inclusion of human rights' teaching, including children's rights, in the school curricula, but it remains concerned about the high drop-out and repetition rates in primary and secondary

schools, disparities between urban and rural areas in terms of access to education and to quality education, the insufficient number of well-trained teaching staff and children's limited access to materials and text books. Concern is also expressed at various forms of discrimination and exclusion which still affect the right to education of certain groups of children, such as pregnant adolescents, unregistered children, children with disabilities and children of Haitian origin born in the State party's territory or belonging to Haitian migrant families, reflecting insufficient attention to article 29 of the Convention.

42. **In the light of article 28 and other related articles of the Convention, the Committee recommends that the State party continue its efforts in the field of education by strengthening its policies and system in order: to improve on-going retention programmes and vocational training for drop-out students; to improve schools' infrastructure; to continue with curricular reform, including teaching methodologies; to eradicate regional disparities with reference to school enrolment and attendance; and to implement special education programmes taking into account the needs of vulnerable children. The Committee further recommends explicit inclusion of the aims of education as mentioned in article 29 of the Convention in the school curricula.**

D.8 Special protection measures

Economic exploitation, including child labour

43. The Committee remains concerned that a large number of children are still involved in labour activities, particularly in the informal sector, including as domestic workers, in agriculture and in the family context. Concern is also expressed about the insufficient law enforcement and lack of adequate monitoring mechanisms to address this situation.

44. **In the light of, inter alia, articles 3, 6 and 32 of the Convention, the Committee recommends that the State party continue working in cooperation with ILO/IPEC for the establishment and implementation of a national plan for the elimination of child labour and undertake all the actions envisaged in the Memorandum of Understanding with ILO/IPEC (1996). The situation of children involved in hazardous labour, especially in the informal sector where the majority of working children are found, requires special attention. The Committee also recommends that the child labour laws be enforced, that labour inspectorates be strengthened and that penalties be imposed in cases of violation.**

Children living and/or working on the streets

45. Concern is expressed at the large number of children living and/or working on the streets.

46. **The Committee recommends that the State party develop a comprehensive policy to address this issue, including: adequate access to health care; rehabilitation services for physical, sexual and substance abuse; services for reconciliation with families; and education, as well as vocational and life-skills training. The Committee also recommends that the State party cooperate and coordinate its efforts with civil society in this regard and provide existing non-governmental programmes with more support.**

Sexual exploitation

47. While noting the creation of the National Inter-Agency Commission for the Prevention and Eradication of Child Prostitution in Tourist Centres, the Committee expresses its concern at the absence of data and of a comprehensive study on the issue of sexual commercial exploitation and sexual abuse of children, as well as at the lack of implementation of the National Plan of Action to address this issue. In addition, the Committee expresses its deep concern at the increase of the number of children in the State party suffering from sexual commercial exploitation, apparently often related to sex tourism.

48. In the light of article 34 and other related articles of the Convention, the Committee recommends that the State party undertake studies with a view to strengthening current policies and measures, including care and rehabilitation policies and measures to prevent and combat this phenomenon. The Committee recommends that the State party take into account the recommendations formulated in the Agenda for Action adopted at the 1996 Stockholm World Congress against Commercial Sexual Exploitation of Children.

Administration of juvenile justice

49. With regard to the administration of the juvenile justice system, the Committee expresses its concern at the slow pace of implementation of the juvenile court system; at the lack of data on children involved in the juvenile justice system; at the conditions in specialized centres for children in conflict with the law; at the situation of children detained in prisons with adults; at the limited training programmes for professionals working in the juvenile justice system.

50. The Committee recommends that the State party continue undertaking effective measures to overcome all existing (see para. 47) obstacles to the full implementation of its juvenile justice system in accordance with the Convention, especially articles 37, 40 and 39, and other relevant international standards such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. In this regard, the Committee further suggests that the State party consider seeking technical assistance from, inter alia, the Office of the United Nations High Commissioner for Human Rights, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF through the Coordination Panel on Technical Advice and Assistance in Juvenile Justice.

Optional protocols

51. The Committee encourages the State party to ratify and implement the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict.

Dissemination of the reports (art. 44)

52. Finally, in the light of article 44, paragraph 6, of the Convention, the Committee recommends that the initial report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations adopted thereon by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention, its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations.

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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-seventh session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child

Denmark

1. The Committee considered the second periodic report of Denmark (CRC/C/70/Add.6), received on 15 September 1998, at its 699th to 700th meetings (CRC/C/SR.699 and 700), held on 22 May 2001, and adopted at its 721st meeting, on 8 June 2001, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's second periodic report and the written replies to its list of issues (CRC/C/Q/DEN/2) which allowed for a clearer understanding of the situation of children. The Committee regrets that the report did not include adequate information concerning the situation of children in Greenland and the Faroe Islands and did not follow the general guidelines regarding the form and contents of periodic reports to be submitted by States parties (CRC/C/58). The Committee is encouraged by the constructive and open dialogue it had with the State party and welcomes the positive reactions to the suggestions and recommendations made during the discussion. The Committee acknowledges that the presence of a delegation directly involved in the implementation of the Convention allowed for a fuller assessment of children's rights in the State party.

B. Follow-up measures undertaken and progress achieved by the State party

3. The Committee commends the State party for its overall progress in implementing the Convention on the Rights of the Child. The State party's efforts to apply the Committee's initial concluding observations and recommendations (CRC/C/15/Add.33) to legislation, policies and programmes for children are noted.

4. The Committee notes with appreciation the State party's outstanding commitment in the area of international cooperation and development assistance. In this regard, the Committee notes that the State party allocates a significant percentage of its gross domestic product to foreign aid, mainly in support of least developed countries.

5. The Committee welcomes the child care initiative introduced by law and taken in cooperation with the municipalities and experts in education in order to improve the quality of day care facilities.

6. The Committee notes with satisfaction that in 1997, the right of parents to use corporal punishment on their children was abolished by law. The Committee expresses further satisfaction at the nationwide awareness raising campaign undertaken to inform parents about the new legislation. The Committee notes the efforts to include material in minority languages as a follow-up to the campaign.

7. The Committee notes with satisfaction that the National Council for Children was permanently established by law in 1998 and mandated to assess independently the situation of children within the State party in light of the principles and provisions of the Convention.

8. The Committee notes with satisfaction that the State party has ratified the Hague Convention of 1993 on Protection of Children and Cooperation in Respect of Intercountry Adoption in 1997. The ratification necessitated amendments to the Adoption Act that, inter alia, ensures greater participation of the child in his/her adoption. The Committee further notes that the State party has ratified ILO Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour and ILO Convention (No.138) concerning Minimum Age for Admission to Employment.

9. The Committee notes that the State party has recently facilitated the second session of the Danish Youth Parliament and welcomes the initiative by the Cabinet to review and circulate the decisions and recommendations of the young parliamentarians.

C. Principal subjects of concern and recommendations

1. General measures of implementation

Reporting

10. The Committee regrets that the report did not include adequate information concerning the situation of children in Greenland and the Faroe Islands and that it did not follow the general guidelines regarding the form and contents of periodic reports to be submitted by States parties (CRC/C/58).

11. The Committee recommends that the State party take all effective measures to ensure that its next periodic report includes specific information on the situation of children in Greenland and the Faroe Islands and that it follows the general guidelines regarding the form and contents of periodic reports to be submitted by States parties (CRC/C/58).

Reservations

12. The Committee notes the initiative of the State party, through its Standing Committee on Procedural Law, to initiate the process of reviewing its reservation to article 40 (2) (b) (v) of the Convention.

13. In light of the Vienna Declaration and Plan of Action of the Vienna World Conference on Human Rights (1993), the Committee encourages the State party to complete the process of review of its reservation to article 40 (2) (b) (v) of the Convention with a view to withdrawing it.

Legislation

14. The Committee notes that the Minister of Justice has set up a committee of human rights experts to examine the advantages and disadvantages involved in incorporating into Danish law the core international human rights treaties, including the Convention on the Rights of the Child. While the Committee notes that the recommendations of the expert committee have not yet been finalized, it remains concerned about the legal status of the Convention on the Rights of the Child in domestic law.

15. The Committee encourages the State party to consider the incorporation of core international human rights instruments, including the Convention on the Rights of the Child, into domestic law. In this regard, the Committee urges the State party to give equal weight to all international human rights instruments. It is recommended that the State party include in its next periodic report information on the recommendations of the expert committee and the decision of the Government regarding this issue.

Ratification of international human rights instruments

16. The Committee notes that the State party is currently considering the possibility of acceding to the International Convention on the Protection of the Rights of All Migrant Workers Members of Their Families.

17. The Committee encourages the State party to accede to this Convention.

Coordination

18. While the Committee notes that the terms of reference of the Inter-Ministerial Committee on Children were updated in 1997, it remains concerned that the Convention has not yet been established as the framework for the work of the Inter-Ministerial Committee. The Committee is also concerned that insufficient efforts have been made by the State party to explicitly include the Convention in its general consideration of children's policies and programmes.

19. The Committee encourages the State party to consider establishing the Convention as the framework for the work of the Inter-Ministerial Committee. Additionally, the State party is encouraged to consider the elaboration of a comprehensive strategy for children based on the Convention on the Rights of the Child.

Data collection

20. The Committee notes with concern that the existing data collection mechanisms are inadequate to ensure the collection of disaggregated data on all aspects of the Convention and to effectively monitor and evaluate progress achieved and assess the impact of policies adopted with respect to children.

21. The Committee recommends that the State party to reinforce its system of data collection and develop indicators to effectively monitor and evaluate progress achieved in the implementation of the Convention and assess the impact of policies adopted with respect to children. Efforts should be made to ensure that the data collection system incorporates all the areas covered by the Convention and covers all children below the age of 18 years, with specific emphasis on those who are particularly vulnerable.

Independent complaints mechanisms

22. The Committee notes that the State party has established a number of initiatives to facilitate the lodging of complaints by children of violations of their rights, including through the Office of the Ombudsman and a telephone hotline. However, the Committee remains concerned about the accessibility and availability of these complaint mechanisms to all children within the State party.

23. The Committee suggests that the State party take all effective measures to ensure that its independent complaint mechanisms are easily accessible to and user-friendly for all children, to deal with complaints of violations of their rights and to provide remedies for such violations. In this regard, the Committee encourages the State party to reinforce its

awareness raising efforts to facilitate the effective use by children of the complaint mechanisms. While the Committee notes the reluctance to establish a separate complaints mechanism for children, it encourages the State party to consider strengthening the mandate of the National Council for Children to include individual cases and complaints from children, or to establish a child rights focal point within the Office of the Ombudsman.

Dissemination of the Convention and its principles

24. The Committee notes the efforts of the State party to disseminate, including through the Internet, the principles and provisions of the Convention within schools and among professionals working with children, including teachers, school administrators and police personnel. However, it remains concerned that children and professionals working with and for children are not fully aware of the Convention and the principles enshrined therein.

25. The Committee recommends that the State party reinforce its efforts to systematically and continuously disseminate the principles and provisions of the Convention and to ensure that the Convention is systematically incorporated into the school curriculum and the training activities of professional groups and administrative bodies, at all levels of society, working with and for children.

2. General principles

Non-discrimination

26. The Committee is aware of the measures taken by the State party to promote non-discrimination through, inter alia, the amendment to the Criminal Code and the preparation and dissemination of a brochure concerning ethnic minorities and the police. However, the Committee notes that de facto discrimination against and xenophobia directed at certain groups of children, especially children belonging to ethnic minorities, refugee and asylum-seeking children, children belonging to migrant families, children with disabilities and those belonging to socially and economically disadvantaged families continue to be of concern, including within the education system.

27. In light of article 2 and other related articles of the Convention, the Committee recommends that the State party strengthen its measures, including through the Board for Ethnic Equality by, inter alia, organizing ongoing awareness raising campaigns to change attitudes and to eliminate de facto discrimination against and xenophobia directed at minority groups, especially children belonging to migrant families, refugee children, children with disabilities and children belonging to socially and economically disadvantaged families.

Best interests of the child

28. The Committee is concerned that the general principle of the best interests of the child (art. 3) is not fully applied and duly integrated in the implementation of the policies and programmes of the State party. In this regard, the Committee notes that the rights of parents are often found to be more important than the best interests of the child.

29. The Committee recommends that further efforts be made by the State party to ensure the implementation of the principle of the best interests of the child in its laws, policies and programmes for children, as well as in all judicial and administrative decisions concerning children.

Respect for the views of the child

30. The Committee is aware of the various provisions in the law concerning the right of the child to be heard and that the legal minimum age in this regard is 12 years. However, the Committee remains concerned about the inadequate implementation of article 12 of the Convention and the fact that children below the age of 12 years do not have a right to be heard.

31. The Committee recommends that the State party take the necessary measures to ensure effective implementation of article 12 of the Convention, not only in court proceedings but also in various administrative decisions, including with respect to child protection services, custody proceedings and the placement of children in institutions. Moreover, the State party is urged to effectively promote and encourage respect for the views of children below the age of 12 years, according to his/her evolving capacities, and in light of article 12 of the Convention.

3. Family environment and alternative care

Parental guidance and responsibilities

32. While the Committee notes that financial and special assistance programmes for single parents have been established, including at the municipal level, it remains concerned about the vulnerability of children belonging to single-parent families. Concern is also expressed about the situation of children belonging to ethnic minority families.

33. The Committee recommends that the State party strengthen its programmes and initiatives in support of single parent and ethnic minority families.

Child abuse and neglect in the family

34. The Committee notes the various measures to address abuse and neglect of children, including the implementation of the proposals of an inter-ministerial working group on sexual abuse. However, it remains concerned about the lack of information on the magnitude of the phenomenon and the effects of the various measures implemented.

35. The Committee recommends that the State party develop and implement a comprehensive policy that includes an effective reporting and referral system of all cases of child abuse, including sexual abuse, and neglect; regular evaluation of the results of the various measures taken; and legislation that ensures child-sensitive, multi-disciplinary procedures conducted by well-trained professionals, in order to avoid further traumatizing of the child.

4. Basic health and welfare

Adolescent health

36. While noting the efforts of the State party, the Committee remains concerned about the health problems faced by adolescents, particularly the high incidents of eating disorders, especially among teenage girls; drug, alcohol and tobacco abuse; and suicide.

37. The Committee recommends that the State party reinforce its efforts to address these adolescent physical and mental health concerns through, inter alia, preventive education, counselling and rehabilitative programmes to strengthen self-confidence among young people and prevent behaviour that could negatively affect their health.

5. Education, leisure and cultural activities

Violence against children in institutions

38. Acknowledging the activities undertaken by the State party in this regard, the Committee remains concerned about the rather high level of bullying in schools and about the inadequate protection of children from abuse, including sexual abuse, in day care and other institutions.

39. The Committee recommends that the State party strengthen its measures, in participation with children, to prevent and combat violence and bullying in schools, taking into account the recommendations of the National Council for Children in that regard. Furthermore, the State party is encouraged to take the necessary measures to prevent persons convicted of crimes against children from working in care and other institutions for children.

6. Special measures of protection

Administration of juvenile justice

40. While the Committee notes the efforts of the State party in the area of juvenile justice, it remains concerned that children between the ages of 15 and 17 years may be held in adult detention facilities and kept in solitary confinement.

41. The Committee urges the State party to review its legislation and policies governing juvenile justice to ensure that they are fully consistent with the Convention, especially articles 37, 40 and 39, as well as other relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. In light of articles 3, 37, 40 and 39 of the Convention, the Committee further recommends that the State party take all effective measures to

ensure that children are separated from adults in detention facilities and that children are not subjected to solitary confinement, unless it is in their best interests and subject to court review. Additionally, the Committee encourages the State party to reinforce its rehabilitation and reintegration programmes for children in conflict with the law.

Sexual abuse and exploitation

42. The Committee is aware of the efforts of the State party to prevent and combat sexual abuse and exploitation, including the recent establishment of an information collection system on sexual abuse. The Committee is concerned about the lack of awareness about child abuse and exploitation and the inadequate efforts to address child pornography. The Committee also notes the need for training for professionals working with and for child victims of abuse, including police officers, lawyers and social workers.

43. In light of article 34 and other related articles of the Convention, the Committee recommends that the State party reinforce its efforts to strengthen current policies and measures, including care and rehabilitation, to prevent and combat these phenomena. The Committee recommends that the State party take all appropriate measures to introduce and/or reinforce training for professional working with and for child victims of abuse and exploitation.

44. The Committee notes that a bill has been introduced that would provide support for children between the ages of 15 and 17 years who may be experiencing difficulties in adjusting to the norms and rules of society, especially those children in conflict with the law. However, the Committee remains concerned about the situation of such children.

45. The Committee encourages the State party to continue and, where necessary, reinforce its efforts in providing adequate support to these children and to their parents.

7. Ratification of the Optional Protocols

46. The Committee is aware that the State party has signed the two Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography.

47. The Committee encourages the State party to ratify both Optional Protocols as soon as possible.

8. Dissemination of the documentation

48. Finally, **in light of article 44, paragraph 6, of the Convention, the Committee recommends that the second periodic report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention, its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations.**

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Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-seventh Session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the
Rights of the Child

Turkey

1. The Committee considered the initial report of Turkey (CRC/C/51/Add.4), received on 7 July 1999, and additional information (CRC/C/51/Add.8) at its 701st and 702nd meetings (see CRC/C/SR.701-702), held on 23 May 2001, and at its 721st meeting, held on 8 June 2001, adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's initial report, which follows the guidelines for reporting, the timely submission of the written replies to its list of issues (CRC/C/Q/TUR.1) and the provision of additional documentation. It notes with appreciation the large and multi-sectoral delegation sent by the State party which allowed the Committee to have a good assessment of the situation of the rights of the child in the State party.

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B. Positive aspects

3. The Committee welcomes the ongoing process of ensuring that the State party's legislation is compatible with the provisions and principles of the Convention. In particular, it notes the preparation of a study to evaluate the conformity of the laws with the Convention and of an "Implementation checklist for the Convention on the Rights of the Child" to monitor to what extent the provisions and principles of the Convention have been implemented in Turkey.

4. The Committee notes with satisfaction the establishment of the Higher Council and the Sub-Committee for Monitoring and Evaluating the Rights of the Child established under the Office of the Prime Minister to coordinate inter-sectoral planning for children. It also notes that the General Directorate of the Social Services and Child Protection Agency (SHÇEK) coordinates the implementation of the Convention within the country.

5. The Committee welcomes the fact that the duration of compulsory education has been increased to eight years and takes note of the government programme addressing high illiteracy among girls and women through the Girls Education Project in collaboration with UNICEF. Further, it notes with interest the Early Childhood Development Support Project whose aim is to give school preparation, health care and nutrition to children aged 5 and 6 who live in disadvantaged areas of major cities.

6. The Committee notes with satisfaction that the State party has ratified ILO Convention No. 138 on the Minimum Age for Employment and ILO Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. It also notes the signature in August 1999 of the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights.

7. The Committee notes with appreciation that the State party launched in 1999 a promotion campaign on the Convention on the Rights of the Child coordinated by the General Directorate of the Social Services and Child Protection Agency (SHÇEK) with the cooperation of various ministries and UNICEF to enhance the principles and provisions of the Convention. It also takes note of the organization of the National Children's Congress in April 2000 with the participation of delegations of children from 81 provinces, civil society organizations, relevant public agencies and universities and of the convening in November 2000 of the Child Forum with the participation of children to review progress in the implementation of the conclusions of the National Children's Congress and to assess the implementation of child's rights activities in the provinces.

8. The Committee acknowledges the multiple efforts undertaken by the State party after the two devastating earthquakes of 1999 to address children's issues by creating social services units to benefit children and by providing psycho-social support for children in schools in the earthquake region.

9. The Committee notes with satisfaction that the State party's initial report was prepared by ad hoc committees comprised of representatives of public agencies, non-governmental organizations and universities, as well as international organizations.

C. Factors and difficulties impeding progress in the implementation of the Convention

10. The Committee notes with concern that the State party is facing some difficulties in the implementation of the Convention, in particular owing to the persistence of social and regional disparities in the country and the damage caused by the two devastating earthquakes of 17 August and 12 November 1999. The Committee further observes that the State party's narrow interpretation of the definition of minority is impeding for some groups the enjoyment of human rights protected under the Convention.

D. Principal areas of concern and recommendation

1. General measures of implementation

Reservations

11. The Committee notes with concern the reservations to articles 17, 29 and 30 of the Convention. It also notes that, in some cases, in particular in the fields of education and, freedom of expression and the right to enjoy their own culture and use their own language, these reservations may have a negative impact on children belonging to ethnic groups which are not recognized as minorities under the Treaty of Lausanne of 1923, in particular children of Kurdish origin.

12. The Committee encourages the State party to consider withdrawing its reservations to articles 17, 29 and 30 of the Convention.

Legislation

13. The Committee notes that part of the national legislation is currently under review, in particular the Civil Law, the Criminal Code and the Code of Criminal Procedure. Nevertheless, it expresses its concern that relevant parts of the legislation, such as the "Anti-terror Law" of 1991 and some provisions on juvenile courts, are still not in full conformity with the provisions and principles of the Convention.

14. The Committee recommends that the State party continue its efforts on law reform with a view to ensuring full conformity of domestic legislation with the provisions and principles of the Convention, and take the necessary steps to end disparities between law and practice, in particular with reference to pre-trial detention of children.

Coordination

15. The Committee, while acknowledging the efforts made by the State party to improve coordination by establishing the Higher Council and the Sub-Committee for Monitoring and Evaluating the Rights of the Child, nevertheless takes note that the General Directorate of the Social Services and Child Protection Agency (SHÇEK), which is the coordinating agency for the

implementation of the Convention and the secretariat for the Higher Council, was not provided with enough financial and human resources. In addition, it expresses its concern at the high level of centralization in the decision-making process and at the inadequate coordination within government agencies, both at the national and local levels, as well as between government agencies and the private and voluntary sectors.

16. The Committee recommends that the State party provide adequate human and financial resources in order to strengthen coordination and make it more effective. It further encourages the State party to decentralize some aspects of the process of democratic decision-making, in particular with regard to health and education, in order to improve coordination also with the local authorities and with the private and voluntary sectors, especially in the south-eastern region.

Allocations of budgetary resources

17. The Committee, while noting that budgetary allocations for children have been increasing in recent years, especially in the education and health sectors, nevertheless expresses its concern that the recent economic crisis and related structural adjustment policies could have a negative influence on such allocations. Further, it remains unclear to what extent the most vulnerable groups of children, in particular, benefit from the increase in the budgetary allocations for children.

18. In the light of article 4 of the Convention, the Committee encourages the State party to identify clearly its priorities with respect to child rights issues in order to ensure that funds are allocated to the maximum extent of available resources for the implementation of the rights recognized in the Convention, including the economic, social and cultural rights of children, in particular to local governments and for children belonging to the most vulnerable groups in society. It also recommends that the State party take the necessary measures to identify the amount and proportion of the budget spent on children at the national and local levels, including resources from international aid programmes, in order to evaluate adequately its impact on children.

Independent monitoring structures

19. The Committee expresses its concern at the absence of an independent mechanism, such as an Ombudsman or a commission for children, to monitor children's rights and to register and address individual complaints from children concerning violations of their rights under the Convention, and notes the ongoing discussions on the establishment of an Office of the Ombudsman for Children.

20. The Committee encourages the State party to pursue its efforts with a view to developing and establishing an independent and effective mechanism, easily accessible for children and in accordance with the Paris Principles, to monitor the implementation of the Convention, to deal with complaints from children in a child-sensitive and expeditious

manner and to provide remedies for violations of their rights under the Convention. In this regard, the Committee also recommends that the State party consider seeking technical assistance from, inter alia, UNICEF and the Office of the High Commissioner for Human Rights.

Data collection and analysis

21. The Committee notes with appreciation measures taken by the State party, such as the establishment of the Child Information Network within the framework of the 1997-2000 Government of Turkey and UNICEF Master Plan of Operations and its continuation in the period 2001-2005 as the Child and Woman Information Network Project. It nevertheless expresses its concern at the absence of a unit within the State Institute of Statistics (SIS) responsible for the systematic collection of disaggregated data for all areas covered by the Convention and in relation to all groups of persons under 18 years of age.

22. The Committee recommends that the State party continue to develop a system of data collection and indicators consistent with the Convention and provide additional support to the Child Information Network. This system should cover all children up to the age of 18 years, with specific emphasis on those who are particularly vulnerable, including child victims of abuse, neglect or ill-treatment; children with disabilities; children belonging to minorities and various ethnic groups; children who are internally displaced; children in conflict with the law; child asylum seekers; children who work; adopted children; and children living in the streets and in rural areas. It further encourages the State party to use these indicators and data in the formulation of policies and programmes for the effective implementation of the Convention.

Dissemination of the Convention

23. While noting the number of initiatives carried out by the State party in order to disseminate the Convention within the country, the Committee is nevertheless concerned that the principles and provisions of the Convention are not yet disseminated at all levels of society and in particular in rural areas.

24. The Committee recommends that the State party promote knowledge of the Convention at all levels, including the administrative authorities and civil society, especially non-governmental organizations and the private sector, and develop more creative methods to disseminate the Convention, in particular through audiovisual aids such as picture books and posters, in particular at the local level. The Committee also recommends adequate and systematic training and/or sensitization of professional groups working with and for children, such as judges, lawyers, law enforcement personnel, teachers, school administrators and health personnel. The State party is encouraged to integrate fully the Convention into the curricula at all levels of the educational system.

2. Definition of the child

25. The Committee expresses its concern about the disparity between the minimum legal age for marriage of boys (17 years) and of girls (15 years) and notes that in the draft civil code the minimum legal age for marriage has been raised to 17 for both boys and girls. Further, it notes with concern that there is not a clear minimum age for admission to employment and this could conflict with the age for the end of compulsory education, which is set at 15.

26. In the light of articles 1 and 2 and related provisions of the Convention, the Committee encourages the State party to pursue its efforts to review its legislation with a view to increasing the minimum age for marriage of girls to that of boys in order to bring it into full conformity with the provisions and principles of the Convention. It also recommends that the State party set up the same age for the end of compulsory education and for admission to employment.

3. General principles

27. The Committee is concerned that the principles of non-discrimination (art. 2 of the Convention), best interests of the child (art. 3) and respect for the views of the child (art. 12) are not fully reflected in the State party's legislation and administrative and judicial decisions, or in policies and practices relevant to children at both national and local levels.

28. The Committee recommends that the general principles of the Convention, in particular the provisions of articles 2, 3 and 12, be appropriately integrated into all relevant legislation concerning children and applied in all political, judicial and administrative decisions, as well as in projects, programmes and services which have an impact on all children. These principles should guide planning and policy-making at every level, as well as actions taken by social and health welfare institutions, courts of law and administrative authorities.

Non-discrimination

29. The Committee is concerned that the principle of non-discrimination (art. 2 of the Convention) is not fully implemented for children belonging to minorities not recognized under the Treaty of Lausanne of 1923, in particular children of Kurdish origin; children with disabilities; children born out of wedlock; girls; refugee and asylum-seeking children; children who are internally displaced; and children living in the south-eastern region and in rural areas, especially with regard to their access to adequate health and educational facilities.

30. The Committee recommends that the State party take appropriate measures to prevent and combat discrimination. It also recommends the collection of appropriate disaggregated data to enable monitoring of discrimination against all children, in particular those belonging to the above-mentioned vulnerable groups, with a view to developing comprehensive strategies aimed at ending all forms of discrimination.

Right to life

31. The Committee is deeply concerned about the violation of the right to life with reference to the practice of "honour killings", prevailing in particular in the eastern and south-eastern regions and among recent immigrants to cities, whereby immediate family members kill women who are suspected of being unchaste, and notes that often both victims and perpetrators are minors.

32. In the light of article 2 (non-discrimination), article 3 (best interests of the child), article 6 (right to life) and article 19 (protection from all forms of violence) of the Convention and in line with Commission on Human Rights resolution 2001/45, with the recommendations of the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/2001/9, paras. 38-41) and with concluding observations of the Committee on the Elimination of Discrimination against Women (A/52/38/Rev.1, paras. 179 and 195), the Committee strongly recommends that the State party review rapidly legislation with a view to addressing these crimes in an effective way and to eliminating all provisions allowing reductions of sentence if the crime is committed for honour purposes. It also recommends the development and effective implementation of an awareness raising and education campaign, involving also religious and community leaders, to combat effectively discriminatory attitudes and harmful traditions affecting girls, in particular in the eastern and south-eastern regions, by demonstrating that such practices are socially and morally unacceptable. The State party should also provide special training and resources to law enforcement personnel with a view to protecting in a more effective way girls who are in danger of "honour killing" and to prosecuting such cases in an effective way.

Respect for the views of the child

33. While noting a number of initiatives to improve the participation of children, such as the Children's Forum, the Committee is nevertheless concerned that general practices and policies in the country do not encourage the freedom of expression of children and notes that, in practice, in administrative and judicial procedures, children's views are often not heard, even when this is provided for in the legislation.

34. In the light of article 12 of the Convention, the Committee recommends that the State party seek to develop a systematic approach and policy, with the involvement of professionals working with children, in particular teachers and social services, and civil society, including community leaders and NGOs, to increase public awareness of the participatory rights of children and encourage respect for the views of the child within the family, school and generally in society. Further, it encourages the State party to recognize the right of children to have their views heard and taken into account in actions taken by social welfare institutions, courts of law and administrative authorities, including at the local level.

4. Civil rights and freedoms

Birth registration

35. The Committee notes with concern that approximately 25 per cent of children under 5 years of age in Turkey are not registered and that these rates are higher in the eastern and south-eastern regions, because parents are unaware of the importance of birth registration and/or have difficult access to registry offices, in particular in rural areas.

36. The Committee recommends that the State party develop more widespread awareness among the population, including through public information campaigns, of the importance of immediate birth registration and improve the registration system in order to reach all families with children, in particular in the eastern region.

Freedom of expression and association

37. The Committee takes note with concern that persons under 18 cannot join associations, including trade unions and non-governmental organizations. It is also noted with great concern that article 13 of the Turkish Civil Code of 1926 stating that children "shall not be entitled to exercise civil rights" does not conform with the Convention, especially its articles 12 to 17.

38. In the light of articles 13 and 15 of the Convention, the Committee recommends that the State party ensure that children can form, join and leave associations freely and, in particular, that young persons who have reached the legal age for being employed can form, join and leave trade unions freely. It further encourages the State party to consider reviewing its legislation in order to guarantee to children their civil rights and freedoms in accordance with the Convention.

Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment

39. The Committee is extremely concerned at violations of the right of the child not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment appearing in the number of reported cases of torture and/or ill-treatment of children, especially when placed in pre-trial detention. It further notes that in a number of cases children are held incommunicado when in police or gendarma custody and are not allowed the presence of a lawyer, practices which can provide protection from torture and ill-treatment, and are not interrogated in presence of a prosecutor, as established by law. It also notes with concern that alleged cases of torture against children are not always duly investigated and perpetrators convicted, thus creating a climate of impunity.

40. In the light of article 37 (a) of the Convention and in line with the recommendations of the Special Rapporteur on Torture (see E/CN.4/1999/61/Add.1), the Committee strongly recommends that the State party enforce, or, when appropriate, review existing legislation, with a view to preventing children being held incommunicado, and investigate in an effective way reported cases of torture and ill-treatment of children. It also recommends that alleged perpetrators be transferred from active duty or suspended while they are

under investigation, and dismissed if convicted. It invites the State party to continue with the systematic training of law enforcement personnel on child rights issues. In the light of article 39, the Committee also invites the State party to take all appropriate measures to ensure the physical and psychological recovery and social reintegration of child victims of torture and/or ill-treatment.

5. Family environment and alternative care

Parental responsibilities

41. While noting as a positive step the recent establishment of Family Consultation Centres in a number of cities, the Committee is nevertheless concerned that there is no appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities, in particular in the case of female headed families.

42. The Committee encourages the State party to undertake effective measures to improve social assistance to families, including through counselling and community-based programmes, and to implement fully the programme of cooperation with UNICEF on enhancing family capacity, in order also to reduce the number of children in institutional care.

Children deprived of family environment

43. The Committee is concerned at the high number of children who live in institutions, half of whom are placed there because of socio-economic problems affecting their families. It notes with concern that these institutions are in some cases in a bad physical state and need adequately trained and competent staff and, therefore, recognizes with appreciation the reorganization of some of these institutions into family units of small groups of children. It also notes that the foster care system is not sufficiently developed and that the law on adoption is too restrictive.

44. The Committee recommends that the State party review the system of institutionalization of children, as well as ensuring, in the light of article 25 of the Convention, the periodic review of children placed in institutions. Further, it recommends that the State party allocate more financial and human resources to improve the situation of children living in institutions. In the light of article 20 of the Convention, it encourages the State party to promote alternative care and further improve the quantity, quality and efficiency of foster care, including by providing sufficient financial support. Further, in the light of article 21, it encourages the State party to review the law on adoptions with a view to facilitating the adoption process.

Child abuse and neglect

45. The Committee expresses its concern about the lack of data, appropriate measures, mechanisms and resources to prevent and combat domestic violence, ill-treatment and abuse, including child sexual abuse and related virginity tests. It notes that societal attitudes towards

women and children often mean that these cases are not reported and that when they are reported, the police do not systematically intervene. The limited number of services for abused children is also a cause of concern.

46. In the light of article 19 of the Convention, the Committee recommends that the State party undertake studies on domestic violence, ill-treatment and abuse, including sexual abuse, to enable it to understand the extent, scope and nature of these practices, adopt adequate measures and policies, and contribute to changing attitudes. The Committee also recommends that cases of domestic violence and ill-treatment and abuse of children, including sexual abuse within the family, be properly investigated within a child-sensitive inquiry and judicial procedure in order to ensure better protection of child victims, including the protection of their right to privacy, and the elimination of virginity tests. Measures should also be taken to provide support services to children in legal proceedings, and for the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment and violence, in accordance with article 39 of the Convention.

Corporal punishment

47. The Committee expresses its deep concern that physical punishment in the home is culturally and legally accepted and that only "excessive punishment" resulting in physical injury is prohibited by the Penal Code. It also notes with concern that, although prohibited, corporal punishment is used in schools and other institutions.

48. In the light of articles 3, 19 and 28 (2) of the Convention, the Committee encourages the State party to develop measures to raise awareness on the harmful effects of corporal punishment and promoted alternative forms of discipline in families, to be administered in a manner consistent with the child's dignity and in conformity with the Convention. It also recommends that the ban on corporal punishments in schools and other institutions be enforced effectively.

6. Basic health and welfare

Children with disabilities

49. While noting as a positive development the establishment of the Administration of the Disabled as the agency coordinating services, and the removal of some structural obstacles in education, employment and rehabilitation, the Committee remains concerned about the huge number of children with disabilities who are institutionalized and the general lack of resources and specialized staff for these children.

50. The Committee recommends that the State party undertake measures to ensure that the situation of children with disabilities is adequately monitored in order to assess effectively their needs. It also recommends that the State party allocate the necessary resources for programmes and facilities for all children with disabilities, especially those living in rural areas, and develop community-based programmes to enable these children to stay at home with their families. In the light of the Standard Rules on the Equalization

of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's recommendations adopted at its day of general discussion on "The rights of children with disabilities" (see CRC/C/69), it is also recommended that the State further encourage their inclusion in society and integration into the regular educational system, including by providing special training to teachers and by making schools more accessible.

Health and health services

51. While noting with appreciation that the State party adopted the Integrated Management of Childhood Illnesses (IMCI) and established 35 new Social Service provincial directorates in 2000, and that protocols for cooperation were signed between the Social Services and Child Protection Agencies and non-governmental organizations in order to improve services for children at the local level, the Committee is nevertheless concerned that the situation with regard to maternal, child and reproductive health is still poor and that there are great disparities between geographic regions and socio-economic classes. It notes in particular that infant, child and maternal mortality rates and malnutrition rates are particularly high in rural areas of the south-eastern region and in poor urban areas. The Committee also notes that the immunization programme does not cover all children in Turkey and that immunization rates are particularly low in the eastern region.

52. The Committee recommends that the State party allocate appropriate resources and develop comprehensive policies and programmes to improve the health situation of all children without discrimination, in particular by focusing more on primary health care and decentralizing the health-care system. In particular, to prevent child mortality and morbidity, it recommends that adequate antenatal and post-natal health-care services be provided and that campaigns be developed to provide parents with basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation, and the prevention of accidents. The Committee encourages the State party to look to international cooperation for the full and efficient implementation of the immunization programme.

Adolescent health

53. The Committee expresses its concern regarding the high rates of early pregnancy, the rise in the number of children and young people using tobacco and drugs, the increase in cases of sexually transmitted diseases (STDs), in particular syphilis, and the growing numbers of cases of HIV/AIDS among young people. Further, it notes the limited availability of programmes and services in the area of adolescent health, including mental health, in particular treatment and rehabilitation programmes for drug addiction. It also notes the lack of sufficient prevention and information programmes, especially on reproductive health, in schools.

54. The Committee recommends that the State party increase its efforts to promote adolescent health, including mental health, policies particularly with respect to reproductive health and substance abuse and strengthen the programme for health education in schools. The Committee suggests that a comprehensive and multidisciplinary study be undertaken to understand the scope of adolescent health problems, including the negative impact of STDs and HIV/AIDS, in order to be able to develop adequate policies

and programmes. It is also recommended that the State party undertake further measures, including the allocation of adequate human and financial resources, to evaluate the effectiveness of training programmes in health education, in particular as regards reproductive health, and to develop youth-sensitive counselling, care and rehabilitation facilities that are accessible without parental consent, when this is in the best interests of the child.

7. Education, leisure and cultural activities

Education

55. The Committee notes with concern the high drop-out rates among girls after the third grade, particularly in rural areas; the decline in the quality of education and the insufficiently participatory teaching methods; the lack of trained personnel and insufficient infrastructure, especially classrooms, in particular in large metropolitan areas and in the south-east.

56. In the light of article 28 of the Convention, the Committee recommends that the State party undertake appropriate measures to ensure regular attendance at school and the reduction of drop-out rates, in particular for girls. It encourages the State party to continue its efforts to introduce pre-school education and to take further steps to ensure the enrolment of children in secondary schools. It also encourages the State party to continue to strengthen the teacher-training programme in order to increase the number of trained teachers and improve the quality of teaching and to direct education towards the aims mentioned in article 29.1 of the Convention and the Committee's General Comment on the aims of education.

8. Special protection measures

Refugee children

57. The Committee notes with concern that only asylum-seekers from European countries are granted refugee status, thus child asylum-seekers of non-European origin, who represent the majority, can be granted asylum only on a temporary basis until they find a third country and, therefore, do not always have access to education and health care. It notes that personnel dealing with child asylum-seekers and refugees do not have training on child rights issues, in particular on how to deal with children who are unaccompanied and in cases of family reunification, as well as with children who come from areas affected by war and who may have been victims of traumatic experiences.

58. The Committee encourages the State party to consider withdrawing the geographical limitation on the 1951 Convention relating to the Status of Refugees and its 1967 Protocol in order to allow non-European child refugees to be granted refugee status. Further it recommends that the State party provide adequate training to officials who deal with child asylum-seekers and refugees, in particular in child-interviewing techniques and on how to ensure family reunification. Also, in accordance with the UNHCR Guidelines on Protection and Care of Refugee Children, it recommends that the

State party ensure that every effort is made to identify children who require special support upon their arrival in the State party, and consider providing adequate psychological assistance to them. The Committee further recommends that the State party strengthen measures to allow all child asylum-seekers and refugee children full access to education.

Internally displaced children

59. The Committee expresses its concern at the large number of internally displaced children in Turkey who were forced to leave their home towns in the 1990s owing to the high level of violence in the south-east region. The Committee is also concerned about their limited access to housing, health services and education.

60. In line with the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2), the Committee recommends that the State party ensure that internally displaced children and their families have access to appropriate health and education services and adequate housing. Further, it invites the State party to collect data and statistics in order to know how many children are displaced and what their needs are, with a view to developing adequate policies and programmes.

Economic exploitation

61. The Committee takes note of the number of protocols the State party has signed with ILO, in particular that for the promotion of education of working children. However, it expresses its concern that there is not a clear legal minimum age for working children and notes, in this regard, the commission established under the Working Children Department of the Ministry of Labour and Social Security to prepare a draft "Law about the minimum age for work and protective measures for working children", which will cover all children who work. It nevertheless remains worried about the large number of children engaged in labour activities, in particular children working in the fields, domestic workers, children working in small enterprises and children working in the streets, who appear to be less protected by legislation.

62. The Committee recommends that the State party continue to undertake measures to prevent and combat all forms of economic exploitation of children, including commercial sexual exploitation.

Children living in the streets

63. While noting that a number of centres have been established, with the collaboration of non-governmental organizations, to provide counselling, training and rehabilitation services for children living in the streets, the Committee nevertheless expresses its concern at the significant number of such children and notes that assistance is generally only provided to them by non-governmental organizations.

64. The Committee recommends that the State party support existing mechanisms to provide children living in the streets with adequate nutrition, clothing, housing, health care and educational opportunities, including vocational and life-skills training, in order to

ensure their full development. Moreover, the State party should ensure that these children are provided with rehabilitation services for physical, sexual and substance abuse; protection from police brutality; and services for reconciliation with their families.

Juvenile justice

65. The Committee notes as a positive development the proposed extension of the competence of juvenile courts from 15 to 18 years of age and the study started by the Ministry of Justice to harmonize the "Law about the formation, duties and procedure of the juvenile courts" with the provisions of the Convention, as well as the establishment of units for child protection within the Security Directorates in every province and sub-district. However, it remains deeply concerned at the major discrepancies between domestic legislation concerning juvenile justice and the principles and provisions of the Convention. In particular, it notes with concern that the minimum legal age for criminal responsibility is 11 and that the Juvenile Courts Law covers children only between the ages of 11 and 14, while children between 15 and 18 are subject to the Penal Law. Further, it also notes with concern that even children between 11 and 14 may not be subject to the Juvenile Courts Law if they are accused of having committed a crime falling under the jurisdiction of State security courts or military courts or if they live in areas under a state of emergency. The fact that detention is not used as a measure of last resort and that cases have been reported of children being held incommunicado for long periods is noted with deep concern. The Committee is also concerned that there are only a small number of juvenile courts and none of them are based in the eastern part of the country. Concern is also expressed at the long periods of pre-trial detention and the poor conditions of imprisonment and at the fact that insufficient education, rehabilitation and reintegration programmes are provided during the detention period.

66. The Committee recommends that the State party continue reviewing the law and practices regarding the juvenile justice system in order to bring it into full compliance with the Convention, in particular articles 37, 40 and 39, as well as with other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), with a view to raising the minimum legal age for criminal responsibility, extending the protection guaranteed by the Juvenile Law Court to all children up to the age of 18 and enforcing this law effectively by establishing juvenile courts in every province. In particular, it reminds the State party that juvenile offenders should be dealt with without delay, in order to avoid periods of incommunicado detention, and that pre-trial detention should be used only as a measure of last resort, should be as short as possible and should be no longer than the period prescribed by law. Alternative measures to pre-trial detention should be used whenever possible.

67. With reference to children deprived of their liberty, the Committee recommends that the State party incorporate in its legislation and practices the provisions of the United Nations Rules for the Protection of Juveniles Deprived of Liberty, in particular guaranteeing them access to effective complaints procedures covering all aspects of their treatment, and taking appropriate rehabilitative measures to promote the social

reintegration of the children involved with the juvenile justice system. Finally, the Committee recommends that the State party seek assistance from, inter alia, the Office of the High Commissioner for Human Rights, the United Nations Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF through the United Nations Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

Optional protocols

68. The Committee encourages the State party to ratify the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.

9. Dissemination of documents from the reporting process

69. Finally, the Committee recommends that, in the light of article 44, paragraph 6, of the Convention, the initial report and written replies presented by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted thereon by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government and the general public, including NGOs and children.

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Concluding observations of the Committee on the Rights of the Child

Democratic Republic of the Congo

1. At its 705th and 706th meetings (CRC/C/SR.705 and 706), held on 28 May 2001, the Committee on the Rights of the Child considered the initial report of the Democratic Republic of the Congo (CRC/C/3/Add.57) and adopted, at the 721st meeting, held on 8 June 2001, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the initial report, which generally followed the guidelines for reporting. The Committee notes that the report contained useful information on implementation of the Convention. The Committee further appreciates the information provided in the written replies and the dialogue that took place with a high-level delegation.

B. Positive Aspects

3. The Committee welcomes the State party's indication during the dialogue that its top three priorities with regard to the Convention's implementation are to strengthen legislation, to improve education and to improve health services.

4. The Committee notes, as an important positive step, the issuance of decree No. 066 of 9 June 2000 with regard to the demobilization of children from the armed forces and the establishment of a special bureau to review the implementation of this decree.

5. The Committee welcomes the creation of the National Council for Childhood, the ongoing development of provincial commissions and the creation of the High Commission for Reinsertion. The Committee further welcomes the translation of the Convention into four local languages.

C. Factors and difficulties impeding the implementation of the Convention

6. The Committee notes the negative impact on children of the armed conflict within the State party's territory and the role of numerous actors in this conflict, including the armed forces of several States all party to the Convention, armed groups and numerous private companies, as cited in a United Nations report on the illegal exploitation of natural resources and other forms of wealth of the Democratic Republic of the Congo. The Committee notes, in particular, grave violations of the Convention within territory outside of the control of the Government of the State party and where armed elements, including armed forces under the jurisdiction of other States parties to the Convention, have been active. The Committee notes, in addition, that article 38 of the Convention requires States parties to respect provisions of international humanitarian law applicable to them and that, as indicated by United Nations sources (see, inter alia, Security Council resolution 1341 (2001) of 22 February 2001), this law has been violated, particularly with regard to children. In this context, in addition to the responsibility of the State party, the Committee also emphasizes the responsibilities of several other States and certain other actors for the negative impact of the armed conflict upon children and for violations of some provisions of the Convention and international humanitarian law within areas of the State party.

7. The Committee notes further, and in spite of the State party's significant natural resources, the extremely poor economic and social conditions of the vast majority of the population and of the State itself - factors that severely limit the State party's capacity to implement the Convention and to apply laws. The Committee notes, in particular, the State party's indication in its written replies to the Committee's list of issues that 89 per cent of the population lives below the poverty line.

D. Principal subjects of concern, suggestions and recommendations

1. General measures of implementation

Legislation

8. The Committee is concerned at the serious failure to implement existing legislation. The Committee notes, in addition, the State party's acknowledgement in its report that the content and application of specific domestic laws are sometimes inconsistent with the Convention on the Rights of the Child. The Committee is concerned that, among others, the following legal instruments are not fully compatible with the provisions of the Convention: the Family Code,

the Labour Code, the Criminal Code, the Criminal Procedure Code, the Civil Code, the Code on Judicial Organization and Competence and the Decree of 6 December 1950 with regard to delinquency.

9. The Committee recommends that the State party strengthen its efforts to implement existing legislation relative to the promotion and protection of children's rights. The Committee also strongly recommends that the State party proceed with its efforts to review, and amend as appropriate, domestic legislation to ensure its full conformity with the provisions of the Convention. In this regard, the State party would recommend the adoption of a children's law code that would gather together in one instrument all of the main provisions of domestic legislation of direct relevance to children. The Committee recommends that the State party seek assistance from UNICEF and OHCHR in this regard.

Implementation, national plans of action and monitoring

10. The Committee notes the involvement of various ministries in the Convention's implementation, the development of a national plan of action for the survival, protection and promotion of children and mothers and, more recently, the establishment of a Ministry for Human Rights, and the National Council for Childhood and provincial councils for children. However, the Committee remains concerned at the lack of effective coordination of the activities of these bodies, in particular with regard to the implementation of the Convention and the national plan of action, and the serious lack of resources available to the National Council. The Committee is similarly concerned about the lack of mechanisms to effectively monitor the Convention's implementation.

11. The Committee strongly recommends that the State party take all necessary steps to ensure the effective coordination of activities related to implementation of the Convention, for example by assigning the coordination role to the National Council, along with the necessary authority and budget. The Committee recommends, in addition, that the State party implement its recommendations in paragraphs 217 to 222 of the State party's report and integrate relevant elements into a new, updated plan of action. Furthermore, the Committee recommends that the State party introduce an independent monitoring mechanism for implementation of the Convention, which is accessible to children. Finally, the Committee recommends that the State party seek technical assistance from UNICEF, WHO, ILO and other intergovernmental and non-governmental organizations.

Budget allocation

12. The Committee is deeply concerned at the very low annual budget allocations for health, education and other areas of direct relevance to children and at reports that these budget allocations were not fully disbursed.

13. In the light of article 4 of the Convention, the Committee recommends that the State party raise the proportion of its spending on health, education, social welfare and other priority areas, to the maximum of available resources, with a view to ensuring access to these services for all children and, where needed, within the framework of international cooperation.

Data

14. The Committee is concerned at the absence of up-to-date and accurate data with regard to the Convention's implementation.

15. The Committee recommends that the State party develop and strengthen a data collection system, with a view to including all areas under the Convention. Such a system should cover all children under 18 years of age, including vulnerable groups of children, as a basis for assessing progress achieved in the realization of children's rights and to help design policies for better implementation of the Convention's provisions. The Committee recommends that the State party seek assistance from, among others, UNICEF.

Cooperation with NGOs

16. The Committee notes the collaboration between the State party and some NGOs but remains concerned that cooperation with other NGOs working for children's rights is insufficient. The Committee is deeply concerned in particular by the reported high numbers of arrests and detentions of some NGO staff and the restrictions placed on NGO registration and activities.

17. The Committee urges the State party to prevent all harassment (including arbitrary arrest and detention) of representatives and/or employees of NGOs. The Committee strongly recommends that the State party support and collaborate with NGOs in their activities to improve implementation of the Convention and to facilitate efforts to establish a nationwide coalition of NGOs focusing on the protection and promotion of children's rights. The Committee recommends further that NGOs be involved in the development of policies and programmes implementing the Convention.

Dissemination of the Convention

18. The Committee is deeply concerned that the Convention is insufficiently known and understood among relevant professionals and among the population in general.

19. The Committee urges the State party to initiate a thorough campaign to inform and train professionals - such as teachers, health professionals including psychological care specialists, social workers, law enforcement officials, national ministerial and local government officials with responsibility for children's rights - children and the population in general on the Convention and its principles and provisions. The Committee recommends that the State party adopt measures to ensure that such an information campaign reaches, among others, rural communities, illiterate persons and persons living in parts of the country not currently under the State party's control.

2. Definition of the child

20. The Committee joins the State party (see paragraph 89 of the State party's report) in expressing concern at the low minimum age of criminal responsibility and the young age of criminal majority - currently 16. The Committee expresses concern further at the difference in the minimum age of marriage for girls (15) and boys (18).

21. The Committee recommends that the State party raise the minimum age of criminal responsibility and that the age of criminal majority be raised to 18, ensuring that all persons below age 18 benefit from international juvenile justice standards. The Committee recommends further that the minimum age of marriage of girls be raised to that applicable to boys.

3. General principles

Discrimination

22. The Committee expresses deep concern at the practices of discrimination which continue to affect profoundly many children in the State party, including ethnic and gender discrimination (see, for example, paragraph 91 of the State party's report). The Committee is concerned that legislation does not explicitly prohibit discrimination against children on all of the grounds covered by the Convention in its article 2 and omits, for example, discrimination against children with disabilities.

23. The Committee strongly recommends that the State party urgently identify and address the different causes of discrimination and end all practices of discrimination which affect respect for the Convention. The Committee recommends that domestic legislation prohibiting discrimination be amended to include all the grounds prohibited under the Convention, including discrimination based on disabilities, and that a review be conducted of legislation to amend any provisions which are discriminatory and which have an impact on children. The Committee recommends that the State party continue and strengthen its efforts to end gender discrimination, notably against girls and women. The Committee recommends that the State party use, inter alia, education and human rights promotion to address discriminatory attitudes among the population in general and in changing discriminatory social practices, including through the promotion of the Convention's provisions and the right of women to non-discrimination. The Committee recommends that the State party implement the concluding observations of the Committee on the Elimination of Racial Discrimination (A/51/18, paras. 509-538) and of the Committee on the Elimination of Discrimination against Women (A/55/38, paras. 194-238). The Committee recommends, finally, that the State party seek assistance from UNICEF and OHCHR.

Right to participation

24. The Committee is concerned that the right of children to participate in decisions which affect them is not respected.

25. In light of article 12 of the Convention, the Committee recommends that the State party increase awareness of the participatory rights of children and further encourage respect for the views of the child within the family, communities, schools, and administrative and judicial systems.

Life, survival and development

26. The Committee is deeply concerned that children's rights to life, survival and development are severely violated within the State party. The Committee is particularly concerned at reports of massive numbers of deaths related to the armed conflict in the east of the State party, and is deeply concerned about practices of infanticide.

27. The Committee strongly urges the State party to take all measures to prevent deaths related to the armed conflict and to prevent infanticide through, inter alia, a peaceful, rapid and conclusive end to the armed conflict, through legislative and judicial means, and through the development and implementation of appropriate policies to assure the rights to life, survival and development of all children.

4. Civil rights and freedoms

Right to a nationality

28. The Committee is deeply concerned that the right to a nationality of some children within the State party, particularly children living in eastern regions of the country and members of certain ethnic groups, is not respected.

29. The Committee urges the State party to ensure that all children, without discrimination, are accorded a nationality and that measures are taken to implement the concluding observations of the Committee on the Elimination of Racial Discrimination on this subject.

Birth registration

30. The Committee is concerned at the very low levels of birth registration in the State party. The Committee joins the State party (see paragraph 76 of the State party's report) in expressing concern that the registration of a child may be hindered by the legal requirement that children be registered only in the area of their regular address and given that many persons have no fixed place of residence.

31. The Committee recommends that the State party continue and strengthen its ongoing efforts to ensure that birth registration is completed for all children, including through suitable amendments to legislation, the introduction of more flexible methods of registration and information campaigns.

Torture and ill-treatment

32. The Committee is deeply concerned that children are regularly the victims of cruel, inhuman or degrading treatment, sometimes constituting torture, committed by, among others, the police, the military, teachers and in the family, and affirms that these acts are violations of children's rights.

33. The Committee strongly urges the State Party to strengthen its efforts to address the causes and incidence of torture and cruel, inhuman or degrading treatment of children by, among others, the police, the military, teachers and in the family, to end and prevent these violations of children's rights and to ensure that the persons responsible for these acts are brought to justice. The Committee recommends in addition that the State party consider the possibility of compensation for the victims of torture and other acts.

Freedom of expression and opinion

34. The Committee agrees with the State party (see paragraph 97 of the State party's report) in expressing concern at limitations on children's right to freedom of expression and notes that children have insufficient opportunities to express their opinions and to have these taken into consideration.

35. The Committee recommends that the State party take steps to strengthen respect for children's right to freedom of expression, including through promotion of the Convention's provisions among parents, teachers and children themselves and in State institutions.

5. Family environment and alternative care

36. The Committee agrees with the State party in expressing deep concern that the State seems increasingly to be shifting its duties and responsibilities onto parents and persons effectively or legally responsible for a child's upbringing (see paragraph 121 of the State party's report). The Committee is further concerned at the large numbers of single-parent and child-headed households, by the diminishing role of the extended family and by the negative effect of these changes on respect for children's rights. The Committee is concerned in addition at the increasing practice of "bi-linear" families under which a community leader assumes parental responsibilities for children and that this practice is replacing parents and has a negative impact on children.

37. The Committee urges the State party to identify, within the framework of a coherent family policy, priorities in terms of the assistance required by parents and other guardians in the context of their care for children, and to ensure provision of the necessary financial and human resources, in particular for single parents and child-headed households. The Committee recommends in addition that attention be given to concerns related to "bi-linear" parenting practices.

Corporal punishment

38. In the context of article 19 of the Convention, the Committee is concerned that the corporal punishment of children is permitted under domestic legislation and continues to be practised in State institutions, including schools and places of detention, and in the family.

39. The Committee recommends that the State party take all appropriate measures, including of a legislative nature, to prohibit and eliminate all forms of corporal punishment in schools and in homes. The Committee further suggests that awareness raising and education campaigns be conducted to change public attitudes and ensure that alternative forms of discipline are administered in a manner consistent with the child's human dignity and in conformity with the Convention, especially articles 19 and 28.2.

Marriage of girls

40. The Committee joins the State party in expressing concern that current legislation and common practice provide insufficient protection to children in the context of early and forced marriage (see paragraph 82 of the State party's report). The Committee is concerned at, inter alia the early marriage of many girls and by the practice through which an uncle may decide to marry his niece.

41. The Committee recommends that the State party implement measures to ensure that traditional marriage practices, including forced marriages, which are harmful to children are prohibited through, inter alia, the adoption and implementation of appropriate legislation. The Committee recommends that the State party make use of information campaigns to help change practices, particularly in rural communities, and ensure that marriages are registered in all areas of the country.

Separation of parents and care for children

42. The Committee joins the State party in expressing concern (see paragraph 93 of the State party's report) that fathers are favoured by courts when determining which parent should have the care of children, that financial security is often the only criterion referred to by judges in such decisions, and that the best interests of the child are not a primary consideration.

43. The Committee recommends that the State party take steps to guarantee that child custody decisions are made on the basis of the best interests of the child and take due account of a child's views while also ensuring respect for a child's right to maintain contact with parents.

Alternative care, adoption

44. The Committee joins the State party in expressing concern at the practice of "fictitious" care (see paragraph 85 of the State party's report) for children deprived of their parents, as a replacement for genuine adoption, which deprives these children of care and education. The

Committee is concerned that mechanisms for the monitoring of respect for the rights of children in institutions and the provision of assistance are inadequate. The Committee is concerned in addition at reports of illegal adoptions, including inter-country adoption.

45. The Committee recommends that the State party undertake measures to ensure greater legal and effective protection of the rights of children deprived of their parents to emotional care and to education and health services, including in the context of informal adoption procedures. The Committee recommends, in addition, that the State party strengthen its mechanisms for the monitoring of respect for the rights of children in need of, and receiving, alternative care assistance. The Committee also recommends that the State party make every effort to ensure that all adoptions comply with international standards and are conducted in the best interests of the child. The Committee recommends further that the State party ratify the Hague Convention on the Civil Aspects of International Child Abduction of 1980 and the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993.

Child abuse and neglect

46. The Committee is concerned about practices of abuse, including sexual abuse, in the family.

47. In light of article 19 of the Convention, the Committee urges the State party to end practices of sexual abuse through, inter alia, monitoring, reporting, use of the criminal justice process to prosecute adults guilty of such abuse, and through information campaigns targeting parents, communities and children. The Committee also recommends that instances of abuse and neglect of children be properly investigated within a child-sensitive inquiry and judicial procedure in order to ensure better protection of child victims, including the protection of their right to privacy. Measures should also be taken to provide support services to children in legal proceedings, and for the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment and violence, in accordance with article 39 of the Convention.

6. Basic health and welfare

Health

48. The Committee notes with deep concern the poor health situation of children in the State party, the very limited access of most children to adequate health care, including mental health care, and the very high rates of maternal and infant mortality, the high percentage of children suffering from malnutrition, the low level of breastfeeding and the lack of an adequate family planning policy. The Committee is concerned in particular by weaknesses in the health infrastructure, including a lack of appropriate equipment within many health centres, the limited quality of services and low immunization rates.

49. The Committee recommends that the State party improve the access of children and mothers to health care, including primary and mental health care, continue and strengthen its vaccination campaign, and develop and implement a clear health policy with regard to

children including, inter alia, the promotion of breastfeeding, the implementation of adequate family planning programmes and action to reduce and prevent malnutrition. The Committee recommends that the State party seek assistance from UNICEF and WHO in this regard.

Children with disabilities

50. The Committee is deeply concerned at the very high numbers of children with preventable and other disabilities, and the fact that these figures are increasing. Noting the very small number of children with disabilities (as indicated by the State party in its written answers to the Committee's list of issues) who have access to education, the Committee is deeply concerned that the rights of children with disabilities to education, as well as health services, are not respected and that they do not receive adequate assistance towards future development. The Committee further joins the State party in expressing concern at the interpretation of disabilities on the basis of certain traditional opinions and that children with disabilities suffer from discrimination as a result of such traditional beliefs (see paragraph 140 of the State party's report). The Committee is also concerned at reports of violence against children with disabilities in State institutions.

51. The Committee recommends that the State party develop and implement measures to guarantee respect for the rights of children with disabilities, including improving their access to health and education services and vocational training. In addition, the Committee recommends that the State party make every effort to ensure that children with disabilities are not discriminated against, including through the provision of appropriate education for parents, teachers, children and members of the population in general. The Committee recommends that the State party strengthen mechanisms to protect children with disabilities and living in institutions from acts of violence. The Committee recommends that the State party provide assistance to NGOs working on behalf of children with disabilities and promote coordination of their activities. The Committee recommends that the State party take note of, and strengthen its efforts through, the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's recommendations adopted at its day of general discussion on the rights of children with disabilities (CRC/C/69). The Committee recommends that the State party seek technical assistance from, among others, WHO and UNICEF.

HIV/AIDS

52. The Committee is deeply concerned at the very high number of children affected by HIV/AIDS through, inter alia, direct infection, including mother-to-child transmission, or following the illness or death of a parent. The Committee is also concerned at provisions in the Criminal Code banning contraception given the growing need to prevent transmission of HIV/AIDS.

53. The Committee recommends that the State party make every effort to reduce the incidence of HIV/AIDS by preventing its transmission among the population through, inter alia, the procurement of suitable medication, a review of legislation, including the

repeal of article 178 of the Criminal Code and suitable prevention campaigns. The Committee recommends further that the State party provide assistance to children and their families affected by HIV/AIDS. The Committee recommends that assistance be sought from UNICEF and WHO in this regard.

Adolescent health

54. The Committee notes with deep concern the decline in access to health services, including mental and reproductive health services, for adolescents and the lack of information on adolescent health problems. The Committee is concerned at levels of HIV/AIDS among adolescents, sexually transmitted diseases and reports of high levels of early pregnancy.

55. The Committee recommends that the State party strengthen its efforts to provide adolescents with easy and adequate access to all child-friendly health care services they may need, including mental and reproductive health services, and make an assessment of adolescent health problems in order to develop and implement a comprehensive policy in this regard. The Committee recommends that the State party seek assistance from UNFPA, WHO and UNICEF.

Harmful traditional practices

56. The Committee is concerned at:

(a) The practice of female genital mutilation in some areas;

(b) Food taboos such as that which forbids children and mothers from eating certain essential food items.

57. The Committee recommends:

(a) In light of article 24 of the Convention, that the State party prohibit, and take action to end, the practice of female genital mutilation and raise awareness of its harmful effects;

(b) That the State party eliminate harmful food taboos, inter alia, by promoting awareness about their detrimental effects on the health of children and women;

(c) That the State party seek assistance from WHO and UNICEF in this regard.

Standard of living/social security

58. The Committee is concerned that the overall standard of living of many children is very poor, in particular with regard to access to clean water, food, adequate housing and sanitation. The Committee is concerned in addition that current social security provisions cover only a very small proportion of the population and that the parents and children most in need of such assistance are not covered by social security.

59. The Committee recommends that the State party take steps to improve the standard of living of children, giving particular attention to water, food, housing and sanitation concerns. The Committee recommends that the State party consider ways of extending social security coverage to a much broader proportion of the population and of ensuring the access of all children to social welfare assistance.

7. Education, leisure and cultural activities

60. The Committee is deeply concerned that the education objectives of the 1992 Plan of Action for the Survival and Protection of Mothers and Children are far from being achieved. The Committee is greatly concerned at the high numbers of children who never attend school or who drop out early from their formal education. The Committee is further concerned that law 86/005 of 29 September 1986 relative to national education has not yet entered into force, with a negative impact on children's access to education. In addition, the Committee is concerned that in practice primary education is not free and that many parents have to pay school fees as well as related costs such as for uniforms and equipment, which remain too expensive for most families. While noting the efforts made by the State party, the Committee nevertheless remains deeply concerned at the low rate of school enrolment of girls, their high drop out rate and also the high female illiteracy rate, especially in rural areas. The Committee is also concerned that some girls are the victims of sexual harassment by teachers. The Committee is concerned, that school infrastructure and equipment are very inadequate, that the quality of education is poor, that teachers are not well trained, and that some students are required to pay teachers for their grades.

61. The Committee urges the State party to adopt and implement legislation establishing a minimum age for the completion of compulsory education and providing for genuinely free primary and, as far as possible, secondary education, with emphasis on assisting children from the most disadvantaged backgrounds. The Committee recommends that the State party implement measures to increase enrolment of children in school and reduce the drop out rate. The Committee recommends that the State party strengthen efforts to improve the access of girls to education, including by establishing specific programmes to reduce female illiteracy and information campaigns promoting this right. The Committee recommends that the State party implement measures to end the sexual harassment of girls in school. The Committee recommends that the State party pursue efforts to improve the quality of education and strengthen educational infrastructure throughout the State party, including through improvements to teacher training, the introduction of human rights education and education for peace, building additional classrooms and more schools, and by providing free transport to schools for children who live far away. The Committee recommends that the State party seek assistance from UNICEF and UNESCO in this regard.

8. Special protection measures

Refugees and internally displaced persons

62. While recognizing the State party's assistance to very large numbers of refugees, the Committee remains deeply concerned at grave violations of the rights of refugee children and

their families and, in particular, at allegations of widespread massacres of tens of thousands of refugees, particularly during 1997, in the eastern region of the State party and the State party's lack of co-operation with, and obstruction of, efforts by the United Nations investigative mission mandated to clarify such allegations. The Committee is concerned that the situation of refugee children and their families within the State party is poor. The Committee is deeply concerned in addition at the very high number of children and their families internally displaced within the State party as a result of the armed conflict. The Committee is concerned at, inter alia, the separation of children from their families, and the very limited access of displaced children to adequate food and to health and education services.

63. The Committee recommends that the State party strengthen its efforts to provide adequate assistance to refugees and that every effort be made to prevent all forms of violence against refugee and internally displaced children and to investigate and seek justice with regard to allegations of massacres of refugee children and their families. The Committee recommends that the State party urgently implement measures to protect civilian populations from further internal displacement, to ensure that those children and their families who have already been displaced have access to food, education and health assistance, and to support the return home of internally displaced populations and their reintegration into their communities. The Committee recommends that the State party make every effort to respect and implement the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2). Noting the ongoing efforts, the Committee urges the State party to continue to give particular attention to strengthening family reunification efforts. The Committee recommends that the State party work closely with UNHCR and UNICEF in this regard.

Children in armed conflict

64. The Committee is deeply concerned at the direct and indirect impact of the armed conflict on almost all children in the State party. The Committee is concerned at the deliberate killing of children by armed forces of the State party, armed forces of other State parties that have participated in the conflict and by other armed groups, and by the continuing impunity for such acts constituting very serious violations of children's rights. The Committee is concerned at, inter alia, the recruitment and use of children as soldiers by the State party and by other actors in the armed conflict, including children under 15. The Committee notes with appreciation the creation of a special bureau for the demobilization and re-integration of child soldiers (DUNABER), but is concerned about the effectiveness of this bureau.

65. The Committee urges the State party to strengthen its efforts to end the armed conflict and to ensure that the protection and promotion of children's rights are given due consideration in the ongoing peace process. The Committee urges the State party to prevent the killing or other forms of harm of children and to ensure that those persons responsible for committing such acts are prosecuted. The Committee further urges the State party to prevent the participation of children in armed conflicts and to end entirely their recruitment including cross-border recruitment, and use as soldiers, and to make additional efforts to demobilize and reintegrate present and former child soldiers into their

communities and to provide for their psychological recovery. The Committee recommends that DUNABER be provided with sufficient human and financial resources to effectively demobilize and reintegrate children in society and to provide the necessary follow-up.

Child labour

66. The Committee joins the State party in expressing concern at the prevalence of child labour, especially in informal sectors which frequently fall outside the protections afforded by domestic legislation (see paragraph 87 of the State party's report). The Committee is deeply concerned at the use of children to work in the Kasaï mines, in locations in Lubumbashi and in other dangerous work environments.

67. **The Committee recommends that the State party make every effort to end child labour, including through the dissemination of children's rights to employers, parents, the public in general and to children themselves. The Committee recommends, in particular, that the State party implement measures to enforce domestic legal protections in both the formal and informal work sectors, including in mines and other harmful environments, and that help be sought from ILO and UNICEF in this regard. The Committee notes the State party's commitment to complete ratification of ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour and recommends that this process be completed, and that the State party also ratify ILO Convention No. 138 concerning the Minimum Age for Admission to Employment.**

Trafficking/sexual exploitation

68. The Committee is deeply concerned by information, including for example in the State party's report, of the trading, trafficking, kidnapping and use for pornography of young girls and boys within the State party, or from the State party to another country, and that domestic legislation does not sufficiently protect children from trafficking.

69. **The Committee strongly recommends that the State party take urgent measures to end the sale, trafficking and sexual exploitation of children through, inter alia, the adoption and implementation of appropriate legislation and the use of the criminal justice process to sanction those persons responsible for such practices. The Committee recommends that the police force and border officials receive special training to help in combating the sale, trafficking and sexual exploitation of children, and that programmes be established to provide assistance, including health care and rehabilitative and social reintegration assistance, to the child victims of sexual exploitation. The Committee recommends that the State party take into account the recommendations formulated in the Agenda for Action adopted at the World Congress against Commercial Sexual Exploitation of Children held in Stockholm in 1996 and raise the age for protection against commercial sexual exploitation to 18 years. The Committee recommends that the State party seek technical assistance from UNICEF in this regard.**

Children living in and/or working on the street

70. The Committee is concerned at the high number and difficult situation of children living in and/or working on the street. The Committee is concerned at, inter alia, the lack of access of these children to food and health and education services and the exposure of these children to several risks, including those related to substance abuse, violence, sexually transmitted illnesses and HIV/AIDS. The Committee is concerned in addition at the tendency of the criminal justice system to treat these children as delinquents.

71. The Committee urges the State party to strengthen its assistance to children living in and/or working on the street by, inter alia, studying the causes and implementing preventive measures and improving the protection of children already in this situation, including through the provision of education, health services, food, adequate shelter and programmes to assist children to leave street life. The Committee urges the State party to ensure that children living/working on the street are not treated as delinquents for acts such as their presence in the street or begging.

Substance abuse

72. The Committee is concerned at the numbers of children abusing substances, such as by inhaling solvents and using cannabis.

73. The Committee recommends that the State party implement measures to prevent substance abuse by children, including through preventing the sale of such substances to children and addressing factors leading to vulnerability. The Committee recommends that the State party, inter alia, pursue its efforts to use information campaigns to alert children and adults to the risks of substance abuse (see paragraph 202 of the State party's report) and that the child victims of substance abuse be provided with appropriate care, rehabilitation and assistance towards their social reintegration.

Juvenile justice

74. The Committee joins with the State party in expressing serious concern at the overall application of juvenile justice, the need for a review of domestic legislation with regard to juvenile justice, and concern that decisions affecting children are taken by judges with insufficient knowledge of children's rights (see, for example, paragraphs 94 and 185 of the State party's report). The Committee is concerned in addition at the ordering of the detention of minors by judicial police officers in contravention of the State party's judicial procedures (see paragraph 186 of the State party's report). The Committee is further concerned at the limited number of sanctions available to judges and the consequent overemphasis on deprivation of liberty as a sanction. The Committee is concerned at the very poor conditions of detention and reports of the ill-treatment of children. The Committee is deeply concerned that children aged 16 and 17 are considered to be adults for the purposes of criminal responsibility. Further, the Committee expresses its concern that children aged 16 or above can, and have been, sentenced to the death penalty and, while acknowledging the presidential pardon recently accorded to children sentenced to death, the Committee notes that such a sentence is a violation of Convention

article 37 (a). The Committee is further concerned that child civilians and child soldiers are brought before military courts and that such courts do not guarantee international judicial protections, such as the right to appeal.

75. **Noting the State party's ongoing efforts, the Committee recommends the implementation of a comprehensive reform of the administration of juvenile justice. The Committee recommends, in particular, that the State party adopt appropriate amendments to its domestic legislation with regard to juvenile justice, with a view to ensuring full compliance with international standards and in particular articles 37, 40 and 39 of the Convention, as well the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines). The Committee recommends that the State party provide appropriate training for, among others, judges and lawyers. In particular, the Committee recommends that the State party proceed with its intention, as described in paragraph 185 of its initial report, to broaden the range of possible sanctions so that deprivation of a child's liberty is used only as a measure of last resort. The Committee recommends that improvements be made to conditions in places of detention and imprisonment in which children are held. The Committee urges the State party to guarantee the application of juvenile justice provisions to all persons aged under 18, in accordance with international standards. In particular the Committee urges the State party to ensure respect for article 37 (a) of the Convention and that no person under 18 is sentenced to the death penalty or life imprisonment without possibility of release. The Committee urges the State party, in keeping with its ban on the recruitment of children as soldiers, to ensure that no child is tried by a military tribunal.**

Ratification of the Optional Protocols

76. Noting the State party's signature of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the Committee recommends that the State party proceed with the ratification of this instrument, as well as of the Optional Protocol on the sale of children, child prostitution and child pornography.

Dissemination of documentation

77. The Committee is concerned that the State party has not disseminated its initial report to the Committee widely and that public access to the report has not been easy.

78. In light of article 44, paragraph 6, of the Convention, the Committee recommends that the initial report and the written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the Parliament and the general public, including non-governmental organizations.

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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-seventh session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child

GUATEMALA

1. The Committee considered the second periodic report of Guatemala (CRC/C/65/Add.10), submitted on 7 October 1998, at its 707th and 708th meetings (CRC/C/SR.707 and 708), held on 29 May 2001, and adopted, at the 721st meeting, held on 8 June 2001, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's second periodic report, which follows the guidelines for reporting, and of the written replies to its list of issues (CRC/C/Q/GUA.2). It further notes with appreciation the high-ranking delegation sent by the State party and welcomes the frank dialogue and the positive reactions to the suggestions and recommendations made during the discussion.

B. Follow-up measures undertaken and progress achieved by the State party

3. The Committee notes with satisfaction that for the preparation of the second periodic report the State party carried out a consultative process with representatives of civil society, including non-governmental organizations.

4. The development of a Master Plan of Operations for 1997-2001 by the SEGEPLAN (the National Economic Planning Council of the Guatemalan Government) and UNICEF in order to support and implement activities to improve the living conditions of women and children is welcomed by the Committee.

5. In the light of its previous recommendation (CRC/C/15/Add.58, para. 33), the Committee welcomes the creation of a National Commission against Child Abuse (CONACMI) and the holding of two National Campaigns against Child Abuse in 1996 and 1998.

6. The Committee welcomes the establishment of the Advisory Committee on Educational Reform for the modification of curriculum content to help eradicate stereotypes and discrimination based on sex, ethnic and social origin, or poverty, and the programme for girls, linked to the National System for the Improvement of Human Resources and Curricula established by the Ministry of Education to develop a gender methodology and an intercultural approach in curricula, textbooks and educational material, as follow-up measures to its previous recommendation in that domain (ibid., para. 30).

7. The Committee notes with interest the Education Programme for Working Children and Adolescents (PENNAT) to assist children who work in markets, parks and the streets in both urban and rural areas.

8. The Committee welcomes the initiative taken by those working in the juvenile justice system to develop unified criteria to be applied in the administration of juvenile justice in the absence of a common system. It further welcomes the implementation in 2000 of a Programme on Probation as a follow-up measure to its recommendation in this regard (ibid., para. 40).

C. Factors and difficulties impeding progress in the implementation of the Convention

9. The Committee, while noting significant progress since the signing of the final peace agreement on 29 December 1996, is concerned that the State party still faces many difficulties in the implementation of the Convention, due in particular to the legacy of poverty and authoritarian rule, as well as to human rights violations and impunity resulting from more than 30 years of armed conflict. Of particular concern to the Committee is the recent information that there are signs that the human rights situation is deteriorating. It also notes the serious economic and social disparities affecting most of the population, in particular indigenous people.

D. Principal areas of concern and recommendation

1. General measures of implementation

Legislation

10. The Committee is deeply concerned that the entry into force of the Children and Adolescent Code of 1996 was postponed several times and, on 24 February 2000, was suspended indefinitely by Congress Decree No. 4-2000. Concern is also expressed that some of the

provisions of a new draft Children's Code introduced in Congress in October 2000 are not in conformity with the Guatemalan Constitution and the Convention, as the Government itself noted in its written response to the list of issues. The Committee is encouraged that according to information provided during the dialogue with the State party delegation the Congress and civil society are engaged in negotiations and discussions about the drafting of a Children's Code which is in conformity with the Constitution and the Convention.

11. The Committee, in line with its previous recommendation (ibid., para. 25), strongly recommends that the State party support as much as possible the process to draft a new Children and Adolescent Code that is in full conformity with the principles and provisions of the Convention, expedite its approval by Congress, and ensure its enactment and full implementation as soon as possible. This new code should make a clear distinction, in terms of judicial procedures and treatment, between children in need of care and protection and those in conflict with the law, and should therefore not be based on the doctrine of "irregular situation".

Coordination

12. The Committee is concerned at the inadequate coordination within government agencies, both at the national and local levels, as well as between government agencies and non-governmental organizations working in the field of children's rights. Further, it notes with concern that the bodies designated to carry out these tasks, i.e. the National Children's Council at national level and the departmental and municipal Children's Councils at the local level, were not established because the Children and Adolescent Code did not enter into force. It is also noted that another coordinating body, the Commission for the Convention on the Rights of the Child (PRODEN), had to scale down its activities due to a cut in its resources.

13. The Committee reiterates its previous recommendation to the State party for a permanent and multidisciplinary mechanism to be developed for coordinating and implementing the Convention at the national and local levels, including the establishment of various mechanisms at all levels to ensure the effective decentralization of the implementation of the Convention, and for the promotion of close cooperation with non-governmental organizations (ibid., para. 27). Further, it recommends the allocation of adequate financial and human resources to existing bodies working in the field of children's rights.

Allocations of budgetary resources

14. While noting the information that there has been an increase in budgetary allocations for children, the Committee nevertheless reiterates its concern that these allocations are not sufficient to respond to national and local priorities for the protection and promotion of children's rights and to overcome and remedy existing disparities between the regions and rural/urban areas with respect to services provided to children (ibid., para. 31). Further, it notes with deep concern that, according to data provided in the State party's report, 88.9 per cent of the population aged between 0 and 14 live in a state of poverty.

15. In light of article 4 of the Convention, the Committee encourages the State party to strengthen its efforts to reduce poverty among children and to identify clearly its priorities with respect to child rights issues in order to ensure that funds are allocated "to the maximum extent of ... available resources and, where needed, within the framework of international cooperation" for the full implementation of the economic, social and cultural rights of children, in particular with respect to local governments and for children belonging to the most vulnerable groups in society. It further recommends that the State party identify the amount and proportion of the budget spent on children at the national and local levels in order to evaluate the impact and effect of the expenditures on children. The State party is encouraged to seek international cooperation and technical assistance in this regard.

Data collection

16. The Committee notes that measures were taken by the State party in line with its recommendation (ibid., para. 28), such as the establishment of a social indicator system in the National Statistical Institute and the conducting of the National Survey on Maternal and Child Health in 1999. It nevertheless expresses its concern that the collection of data is still focused on health and education and does not include all areas covered by the Convention.

17. The Committee recommends that the State party continue to develop a system to collect data and indicators reflecting the provisions of the Convention, disaggregated by gender, age, indigenous and minority groups, urban or rural area. This system should cover all children up to the age of 18 years, with specific emphasis on those who are particularly vulnerable, including children belonging to indigenous groups; child victims of abuse, neglect, or ill-treatment; children with disabilities; children who are displaced; children in conflict with the law; children who work; children who are sexually exploited for commercial purposes; adopted children and children living in the streets and in rural areas. It further encourages the State party to use these indicators and data for the formulation of policies and programmes for the effective implementation of the Convention.

Dissemination and training

18. The Committee recognizes that material on the promotion of human rights was disseminated by both governmental agencies and non-governmental organizations, but it notes that these measures need to be strengthened, in particular in rural areas and among indigenous children.

19. The Committee recommends that the State party increase its efforts to translate informative material into the main indigenous languages and that it develop more creative methods to promote the Convention, including through audio-visual aids such as picture books and posters, in particular at the local level. The Committee also recommends adequate and systematic training and/or sensitization of professional groups working with and for children, such as judges, lawyers, law enforcement personnel, teachers, school administrators and health personnel. The State party is encouraged to fully integrate the

Convention into the curricula at all levels of the educational system. It is suggested that the State party seek technical assistance from, among others, UNICEF, UNESCO and OHCHR.

Civil society

20. The Committee, while noticing examples of collaboration between governmental institutions and non-governmental organizations, such as within PRODEN, it nevertheless notes that cooperation with non-governmental organizations should be further promoted and reinforced. Concern is also expressed that some non-governmental organizations working with children have lately been subjected to threats and assaults.

21. The Committee reiterates its recommendation (ibid., para. 27) to encourage the promotion of closer cooperation with non-governmental organizations for the coordination and implementation of the Convention at the national and local levels and in urban and rural areas. It strongly recommends that the State party effectively investigate and prosecute cases of threats and assaults against non-governmental organizations working with and for children and take the necessary measures to prevent such actions.

2. Definition of the child

22. The Committee reiterates its concern about the disparity between the legal minimum age for admission to employment (14 years) and the age for the end of compulsory education (15 years). Further, it notes that, in line with its recommendation (ibid., para. 26), a proposal to set the minimum legal age for marriage for both boys and girls at 16 was introduced in Congress but was never considered.

23. In light of articles 1 and 2 and other related provisions of the Convention, the Committee reiterates its recommendation that the State party pursue its efforts to review its legislation with a view to increasing the minimum age of marriage for girls to that for boys in order to bring it into full conformity with the provisions and principles of the Convention. It further recommends that the State party redefine the minimum age for admission to employment so that it corresponds to the age at which compulsory education ends.

3. General principles

24. The Committee is concerned that the principles of non-discrimination (art. 2 of the Convention), best interests of the child (art. 3) and respect for the views of the child (art. 12) are not fully reflected in the State party's legislation and administrative and judicial decisions, as well as in policies and programmes relevant to children at both national and local levels.

25. The Committee recommends that the State party appropriately integrate the general principles of the Convention, in particular the provisions of articles 2, 3 and 12, in all relevant legislation concerning children and apply them in all political, judicial and administrative decisions, as well as in projects, programmes and services which have an

impact on all children. These principles should guide planning and policy-making at every level, as well as actions taken by social and health and welfare institutions, courts of law and administrative authorities.

Non-discrimination

26. The Committee is concerned that the principle of non-discrimination (art. 2) is not fully implemented for children belonging to indigenous groups, urban and rural poor children, girls, children with disabilities and displaced children especially with regard to their access to adequate health and educational facilities.

27. The Committee recommends that the State party take all the necessary measures to end discrimination. In this respect, the State party is encouraged to monitor discrimination against children, in particular those belonging to the above-mentioned vulnerable groups, and to develop, on the basis of the results of such monitoring, comprehensive strategies for implementing specific and well-targeted actions aimed at ending all forms of discrimination.

4. Civil rights and freedoms

Birth registration

28. The Committee notes with concern that a large number of children, in particular girls in rural and poor urban areas, are not registered because of distance from registry offices or because parents are unaware of the importance of the procedure for birth registration.

29. In light of article 7 of the Convention, the Committee recommends that the State party develop more widespread awareness among the population of the importance of birth registration and improve the registration system so that it reaches all people, in particular those in rural areas.

Torture, or other cruel, inhuman or degrading treatment or punishment

30. The Committee is deeply disturbed by information that violence against children is increasing. In particular, it notes with great concern that many children fear for their lives because they are continually threatened and are victims of violence, notably when they are living and/or working in the street but also when they are at home. Of particular concern to the Committee is the alleged involvement of the State Civil Police in some of the alleged cases of violence and the lack of proper investigation of these cases by Guatemalan authorities.

31. The Committee recommends that the State party take, as a matter of the highest priority, all the necessary steps to prevent these serious violations of children's rights and to ensure that they are properly investigated and that those responsible are brought to justice. In light of article 39, the Committee also invites the State party to take all appropriate measures to ensure the physical and psychological recovery and social reintegration of child victims of torture and/or ill-treatment and to provide adequate compensation. The State party is invited to seek international cooperation in this regard.

5. Family environment and alternative care

Parental responsibilities

32. The development of initiatives such as the Plan of Action for Social Development and Peacebuilding 1996-2000, which had among its priorities the strengthening of the family, schooling for parents and the Comprehensive Care Programme for Children under Six (PAIN), are positive measures in line with the Committee's recommendation (ibid., para. 38). The Committee is, however, concerned that such programmes have had little impact in view of the number of children and parents who need this support.

33. In light of article 18 of the Convention, the Committee reiterates its recommendation that the State party improve social assistance to families to help them with their child-rearing responsibilities, including through counselling and community-based programmes, as a means of reducing the number of children in institutional care. The Committee recommends that the State party seek international assistance from, among others, UNICEF.

Adoption

34. The Committee notes with deep concern that there was no follow-up to its recommendations (ibid., para. 34) to introduce measures to monitor and supervise the system of adoption effectively and to consider ratifying the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993. Concern is expressed at the extremely high rates of intercountry adoptions, at adoption procedures not requiring authorization by competent authorities, at the absence of follow-up and, in particular, at reported information on sale and trafficking in children for intercountry adoptions. It is also noted that several drafts of adoption laws have been pending in Congress but never adopted.

35. In light of article 21 of the Convention and in line with the recommendations of the Special Rapporteur on the sale of children, child prostitution and child pornography (see E/CN.4/2000/73/Add.2) and of the United Nations Verification Mission in Guatemala (MINUGUA), the Committee strongly recommends that the State party suspend adoptions in order to take the adequate legislative and institutional measures to prevent the sale and trafficking of children and to establish an adoption procedure which is in full compliance with the principles and provisions of the Convention. It further reiterates its recommendation to ratify the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993.

Abuse and neglect

36. The adoption of the Act on the Prevention, Punishment and Eradication of Domestic Violence in 1996, the creation of CONACMI and the conducting of national campaigns against child abuse are positive measures in line with the Committee's recommendation (ibid., para. 33).

However, concern is expressed at the lack of data and appropriate measures, mechanisms and resources to prevent and combat domestic violence, including child physical and sexual abuse, and neglect and at the limited number of services for abused children, in particular in rural areas.

37. In light of article 19 of the Convention, the Committee recommends that the State party undertake studies on domestic violence, ill-treatment and abuse, including sexual abuse, in order to understand the extent, scope and nature of these practices, adopt and effectively implement adequate measures and policies, and encourage changes in attitudes. The Committee also recommends that cases of domestic violence and ill-treatment and abuse of children, including sexual abuse within the family, be properly investigated within a child-sensitive inquiry and judicial procedure in order to ensure better protection of child victims, including the protection of their right to privacy. Measures should also be taken to provide support services to children in legal proceedings, and for the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment and violence, in accordance with article 39 of the Convention. The Committee recommends that the State party seek, in this regard, international cooperation and technical assistance from, among others, UNICEF and WHO.

6. Basic health and welfare

Children with disabilities

38. The Committee, while taking note of the Act on the Provision of Services for Persons with Disabilities of 1996 and the establishment of a National Network for Support to Disabled Persons which has also established departmental links in the interior of the country, is nevertheless concerned that discrimination against children with disabilities still occurs and that parents are often unaware of their children's rights. Further, it is concerned about the huge number of children with disabilities who are institutionalized and the general lack of resources and specialized staff for these children.

39. In light of article 23 of the Convention, the Committee recommends that the State party undertake measures to ensure that the situation of children with disabilities is monitored in order to effectively assess their situation and needs, and to conduct public awareness campaigns in all languages, in particular indigenous ones, to raise awareness of the situation and rights of children with disabilities. It further recommends that the State party allocate the necessary resources for programmes and facilities for all children with disabilities, especially those living in rural areas, and develop community-based programmes to enable them to stay at home with their families. Also, support programmes for parents of children with disabilities are recommended, including counselling and, when necessary, financial assistance. In light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's recommendations adopted at its day of general discussion on

"The rights of children with disabilities" (see CRC/C/69), it is also reiterated (ibid., para. 38) that the State party should further encourage the integration of disabled children into the regular educational system and their inclusion in society, including by providing special training to teachers and by making schools more accessible. The Committee recommends that the State party seek technical assistance from, among others, WHO.

Health and health services

40. Measures such as the launching of a Comprehensive Health Care System (SIAS), the Friendly Hospitals initiative, a national plan for the reduction of maternal and perinatal mortality and a national mother and child programme are positive steps. However, the Committee is concerned that the health standard of the children living in Guatemala, especially children living in the rural areas and in poor urban areas, is inadequate. It notes in particular the high infant mortality rates due, inter alia, to nutritional deficiencies, lack of sanitation facilities and limited access to preventive and curative health services, with wide differences between urban and rural areas and between the different ethnic groups; the Committee also notes the high maternal mortality rates, due largely to a high incidence of illegal abortion.

41. In light of article 24 of the Convention, the Committee recommends that the State party allocate appropriate resources and develop comprehensive policies and programmes to improve the health situation of all children without discrimination, in particular by focusing more on primary-level care and decentralizing the health-care system. In particular, to prevent child mortality and morbidity and to address the high maternal mortality rate, the Committee recommends the provision of adequate antenatal and postnatal health-care services and the development of campaigns to provide parents with basic knowledge about child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation, family planning and reproductive health. The Committee encourages the State party to look to international cooperation for the full and efficient implementation of the immunization programme. Further, it recommends to the State party to seek technical assistance from, among others, WHO, UNICEF and UNFPA.

Malnutrition

42. The Committee notes that the State party has implemented a number of food and nutrition programmes for children in schools such as the "Happy Heart" programme, as also recommended (ibid., para. 36). However, by noting the high rates of both chronic and severe malnutrition still affecting in particular children under five in rural areas, especially those belonging to indigenous groups, the Committee expresses its deep concern that there are no governmental policies to reduce and combat malnutrition among babies and children under five.

43. The Committee reiterates its recommendation that the State party develop a comprehensive nutritional programme in order to prevent and combat malnutrition, in particular among children under five (ibid., para. 36), and assess the impact of the programme on those affected, with a view eventually to improving its effectiveness. The Committee recommends that the State party seek international cooperation from, among others, UNICEF and WHO.

Adolescent health

44. The Committee expresses its concern regarding the high rates of early pregnancy, the rise in the number of children and youths using drugs, the increase in cases of sexually transmitted diseases (STDs), in particular syphilis, and the growing number of cases of HIV/AIDS among youths. Further, it notes the limited availability of programmes and services in the area of adolescent health, including mental health, and the lack of sufficient prevention and information programmes in schools, especially on reproductive health.

45. The Committee recommends that the State party increase its efforts to promote adolescent health policies, including mental health, particularly with respect to reproductive health and substance abuse, and strengthen the programme of health education in schools. The Committee further suggests that a comprehensive and multidisciplinary study be undertaken to understand the scope of adolescent health problems, including the negative impact of STDs and HIV/AIDS, in order to be able to develop adequate policies and programmes. It is also recommended that the State party undertake further measures, including the allocation of adequate human and financial resources, to evaluate the effectiveness of training programmes in health education, in particular as regards reproductive health, and to develop youth-sensitive and confidential counselling, care and rehabilitation facilities that are accessible without parental consent when this is in the best interests of the child. The Committee encourages the State party to seek additional technical cooperation from, among others, UNFPA, UNICEF, WHO and UNAIDS.

7. Education, leisure and cultural activities

Education

46. While noting with appreciation the number of national efforts undertaken to extend the coverage and improve the quality of the school system, particularly at the pre-school and primary levels and with special attention paid to girls, the Committee is nevertheless concerned about the high repetition and drop-out rates, the high pupil-teacher ratio and the high incidence of absenteeism, truancy and over-age pupils. Further, it notes with concern that bilingual education is offered only in a limited number of indigenous languages and only at pre-school level and in the first three grades of primary schooling.

47. In light of articles 28 and 29 of the Convention, the Committee recommends that the State party undertake appropriate measures to increase budgetary allocations for education, ensure regular attendance at schools and the reduction of drop-out rates, and strengthen the quality of education in order to achieve the goals stated in article 29.1, in line with the Committee's General Comment No. 1 on the aims of education (CRC/C/GC/2001/1). It also reiterates its recommendation (ibid., para. 37) that the State party should continue to strengthen the teacher training programme in order to increase the number of trained teachers and improve the quality of teaching and the bilingual education programme. In this respect, the Committee encourages the State party to seek additional technical cooperation from, among others, UNESCO and UNICEF.

8. Special protection measures

Children affected by armed conflict

48. The Committee notes that the State party launched an action plan for the psychological rehabilitation of children affected by the armed conflict based on a preventive programme with community participation, as previously recommended by the Committee (ibid., para. 39). However, it expresses its concern at the lack of professional staff prepared to work in these communities and at the insufficient number of services to meet demand. It also notes with concern that a large number of children were internally displaced or forcibly disappeared during the armed conflict and that the State party did not investigate these disappearances effectively.

49. In light of article 39 of the Convention, the Committee recommends that the State party consider complying with the recommendations of the Truth Commission regarding a national reparation programme that would also include children affected by the internal armed conflict, and that it effectively investigate all cases of children who were forcibly disappeared by allocating human and financial resources to and cooperating with the National Commission for Searching for Disappeared Children. Further, the Committee recommends that the State party strengthen its efforts to implement the Programme to Support Resettlement of Displaced Groups and to ensure adequate protection to internally displaced children, paying special attention to the problem of lack of identification papers. The Committee encourages the State party to continue its international cooperation programmes with, among others, UNDP, UNHCR and UNCHS (Habitat).

Economic exploitation

50. With regard to its recommendation on child labour (ibid., para. 39), the Committee takes note of the measures taken by the State party such as the signing in 1996 of a memorandum of understanding with ILO for the adoption of the International Programme on the Elimination of Child Labour (IPEC). However, it expresses its deep concern at the large number of children who are still exploited economically, in particular those under 14 years of age.

51. In light of article 32 of the Convention and in line with its previous recommendation (ibid., para. 41), the Committee reiterates that the State party should continue to enforce and strengthen its legislation protecting working children and to combat and eradicate as effectively as possible all forms of child labour, in cooperation with ILO/IPEC.

Sexual exploitation

52. While noting that the National Plan against Sexual and Commercial Exploitation is in the final stages of elaboration, the Committee expresses its deep concern that, with regard to the increasing phenomenon of commercial sexual exploitation of children, in particular girls, there are no data available, legislation is inadequate, cases involving sexually exploited children are often not investigated and prosecuted, and no rehabilitation programmes are available.

53. In light of article 34 of the Convention and in line with the recommendations of the Special Rapporteur on the sale of children, child prostitution and child pornography (see E/CN.4/2000/73/Add.2), the Committee recommends that the State party expedite the

adoption of the National Plan against Sexual and Commercial Exploitation, taking into account the Agenda for Action adopted at the World Congress against Commercial Sexual Exploitation of Children and undertake a study on this issue in order to understand its scope and causes, to enable effective monitoring of the problem and to develop the necessary measures and programmes to prevent, combat and eliminate it. The Committee invites the State party to seek international cooperation in this regard.

Children living in the streets

54. The Committee expresses its concern at the significant number of children living in the streets and notes that assistance to these children is provided mainly by non-governmental organizations. In light of article 6 of the Convention, serious concern is expressed at allegations of rape, ill-treatment and torture, including murder for the purpose of "social cleansing", of children living in the streets.

55. The Committee recommends that the State party expedite the adoption of a National Plan for the Care of Street Children and ensure that children living in the streets are provided with nutrition, clothing, housing, health care and educational opportunities, including vocational and life-skills training, in order to support their full development. Moreover, the State party should ensure that these children are provided with rehabilitation services for physical, sexual and substance abuse; protection from police brutality; and services for reconciliation with their families. The Committee encourages the State party to seek additional international cooperation from, among others, UNICEF and WHO.

Juvenile justice

56. The Committee expresses its serious concern that its previous recommendation encouraging the reform of the juvenile justice system to ensure its full compatibility with the principles and provisions of the Convention (CRC/C/15/Add.58, para. 40) has not yet been implemented because of the postponement of the entry into force of the Children and Adolescent Code of 1996. In particular, it reiterates its concern about the doctrine of "irregular situation" and notes that legal assistance for children is not mandatory and that the presence of a translator for indigenous children is not required. Concern is also expressed at the long periods of pre-trial detention and at poor conditions in detention centres, at the fact that children with no prior criminal record are held together with children with a criminal record and that inadequate education, rehabilitation and reintegration programmes are provided during the detention period.

57. In line with its own previous recommendation and with that of the Special Rapporteur on the independence of judges and lawyers (see E/CN.4/2000/61/Add.1), the Committee recommends that the State party continue reviewing its law and practices regarding the juvenile justice system in order to bring it as soon as possible into full compliance with the Convention, in particular articles 37, 40 and 39, as well as with other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), and that it expedite the adoption of the Children and Adolescents Code of 1996

which guarantees due process of law for children and social and educational correctional measures. In particular, the Committee reminds the State party that juvenile offenders should be dealt with without delay, in order to avoid periods of incommunicado detention, and that pre-trial detention should be used only as a measure of last resort, should be as short as possible, and should be no longer than the period prescribed by law. Alternative measures to pre-trial detention should be used whenever possible.

58. With reference to children deprived of their liberty, the Committee recommends that the State party incorporate into its legislation and practices the United Nations Rules for the Protection of Juveniles Deprived of Liberty, in particular to guarantee them access to effective complaints procedures covering all aspects of their treatment, and take appropriate rehabilitative measures to promote the social reintegration of the children involved in the juvenile justice system. Finally, the Committee recommends that the State party seek assistance from, among others, OHCHR, the United Nations Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the United Nations Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

Optional Protocols

59. The Committee encourages the State party to ratify and implement the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.

9. Dissemination of documentation

60. Finally, the Committee recommends that, in light of article 44, paragraph 6, of the Convention, the second periodic report and the written replies presented by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government and the general public, including NGOs.